

**Maryland Local Government:  
Structure and Powers**

**Legislative Handbook Series  
Volume VI  
2002**



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## Foreword

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Local governments in Maryland have evolved significantly since the establishment of the State's first county in 1637. At that time, local governments served mostly as administrative arms of the State. Through the subsequent granting of home rule powers, county and municipal governments have been able to enact laws that address the unique needs and challenges confronting their citizens. Today local governments spend approximately \$17.2 billion on public services. These services directly affect the quality of life of each Marylander. From providing quality public education to the State's school children to protecting our streets and neighborhoods, county and municipal governments are at the forefront of the delivery of vital public services in Maryland.

This is the sixth in a series of nine volumes of the 2002 Legislative Handbook Series prepared prior to the start of the General Assembly term by the staff of the Office of Policy Analysis, Department of Legislative Services. This volume has been developed to provide a better understanding of local government in Maryland, the structure and powers of each form of local government, and the role of the General Assembly in relation to local government. Georgeanne Carter and Patrick Tracy prepared the material for this volume. Karen Benton and Christopher Kelter contributed to its development. Hiram Burch, Claire Rooney, and Laura Lodge reviewed the document. A special thanks is provided to JoAnn Bryan who prepared and finalized the manuscript.

The Department of Legislative Services trusts that this information will be of use to those interested in learning more about local government in Maryland and the relationship between the General Assembly and local government. The department welcomes comments and suggestions on ways future editions may be improved.

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Executive Director  
Department of Legislative Services  
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Annapolis, Maryland  
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# Chapter 1. Overview of Local Government in Maryland

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Within four years after the establishment of Lord Calvert's first settlement at St. Mary's City in 1634, the rudiments of local government were present in the new proprietary province of Maryland. Since that time local government has evolved, changing as the times and needs of local communities have changed. Likewise, the law governing local government has developed to address such change. It is in this historic light that the differences among local governments and the relationship among different levels of government may be best understood.

There is no mention of local government in the United States Constitution, and local governments are generally considered creatures of the state. Yet often it is with their local government that citizens most closely identify. In terms of types and number of local governments, Maryland's structure is relatively simple. The United States Census Bureau identifies 421 local governments in Maryland. This includes the State's 23 counties, Baltimore City, 156 municipalities, and 241 special districts. There are 87,454 local governments throughout the United States. Maryland ranks 45th among the states in terms of the number of local governments. Exhibit 1.1 summarizes the number of local governments in each state.

*Maryland Local Government: Structure and Powers*, Volume VI of the Legislative Handbook Series provides an overview of local government in Maryland, with primary emphasis on those matters that affect the role and authority of the General Assembly in relation to the various forms of local government.

Chapter 2 addresses Maryland's counties, the primary units of local government. A brief profile of each county (and Baltimore City) is provided, followed by select demographic information. The manner in which counties are formed or modified is also addressed. Maryland's counties operate under three forms of government, each of which is addressed in turn: commission government, charter home rule, and code home rule. Because it operates under a charter adopted pursuant to the constitutional provisions governing charter counties, Baltimore City is addressed in connection with charter counties. The authority of each form of county government is also reviewed.

Chapter 3 addresses Maryland's municipal corporations. Select demographic information is provided, and the historical development of municipal home rule is addressed. An overview of the municipal incorporation process is provided, and select municipal powers are reviewed.



**Exhibit 1.1**  
**Number of Local Governments in the United States by Type**

<b>Rank</b>	<b>State</b>	<b>Total</b>	<b>County</b>	<b>Municipal</b>	<b>Township</b>	<b>Special</b>
1	Illinois	6,835	102	1,288	1,433	4,012
2	Pennsylvania	5,070	66	1,023	1,546	2,435
3	Texas	4,700	254	1,177	0	3,269
4	California	4,607	57	471	0	4,079
5	Kansas	3,950	105	627	1,370	1,848
6	Ohio	3,597	88	941	1,310	1,258
7	Minnesota	3,501	87	854	1,794	766
8	Missouri	3,416	114	944	324	2,034
9	New York	3,413	57	615	929	1,812
10	Indiana	3,198	91	569	1,008	1,530
11	Wisconsin	3,059	72	583	1,266	1,138
12	Nebraska	2,894	93	535	455	1,811
13	Michigan	2,775	83	534	1,242	916
14	North Dakota	2,758	53	363	1,341	1,001
15	Iowa	1,876	99	950	0	827
16	Colorado	1,869	62	269	0	1,538
17	Washington	1,812	39	275	0	1,498
18	South Dakota	1,810	66	309	956	479
19	Oklahoma	1,799	77	592	0	1,130
20	Arkansas	1,516	75	491	0	950
21	Oregon	1,493	36	240	0	1,217
22	New Jersey	1,421	21	324	243	833
23	Kentucky	1,366	119	434	0	813
24	Georgia	1,344	156	535	0	653
25	Idaho	1,147	44	200	0	903
26	Montana	1,144	54	128	0	962
27	Alabama	1,131	67	446	0	618
28	Florida	1,081	66	394	0	621
29	North Carolina	952	100	527	0	325
30	Tennessee	940	93	343	0	504



Rank	State	Total	County	Municipal	Township	Special
31	Mississippi	936	82	295	0	559
32	New Mexico	881	33	99	0	749
33	Massachusetts	861	12	44	307	498
34	Maine	832	16	22	467	327
35	South Carolina	716	46	269	0	401
36	West Virginia	704	55	232	0	417
37	Vermont	691	14	49	237	391
38	Utah	683	29	230	0	424
39	Wyoming	654	23	97	0	534
40	Arizona	637	15	87	0	535
41	Connecticut	583	0	30	149	404
42	New Hampshire	575	10	13	221	331
43	Virginia	483	95	231	0	157
44	Louisiana	467	60	302	0	105
45	<b>Maryland</b>	<b>421</b>	<b>23</b>	<b>157</b>	<b>0</b>	<b>241</b>
46	Delaware	336	3	57	0	276
47	Nevada	205	16	19	0	170
48	Alaska	175	12	149	0	14
49	Rhode Island	119	0	8	31	80
50	Hawaii	19	3	1	0	15
	District of Columbia	2	0	1	0	1
	United States	87,454	3,043	19,373	16,629	48,409

Source: U.S. Census Bureau, 1997 Census of Local Government

Chapter 4 addresses special taxing districts and regional agencies. Eleven special taxing districts that were established by the General Assembly with independent governing bodies are addressed as is the authority of counties and municipal corporations to establish special taxing districts. This chapter concludes with a discussion of regional agencies established by the General Assembly for purposes that transcend county lines, with particular attention to two regional agencies that operate in Montgomery and Prince George's counties: the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission.

Chapter 5 addresses the authority of the General Assembly to adopt local legislation and the interrelationship between the General Assembly and Maryland's local



governments. The authority of the State and local governments occasionally overlaps; this chapter discusses how the law addresses these circumstances.

Appendix 1 sets out select provisions of the Maryland Constitution affecting local government. Appendices 2 and 3 set out the express powers of home rule counties and municipal corporations, respectively. The authority of local governments is found in various articles of the Annotated Code of Maryland and in public local laws as well as in the Maryland Constitution. The reader is cautioned not to consider the authority reprinted in the appendices as comprehensive.

Detailed discussions of local government services and finances are found in *Government Services in Maryland*, Volume II and *Maryland Local Government: Revenues and State Aid*, Volume VII of the Legislative Handbook Series.



## Chapter 2. Counties

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### Introduction

Like other states south of the Mason-Dixon line, Maryland has depended on county government as the primary provider of local government services. States to the north have traditionally relied more on townships; counties, where they existed, played a secondary role. A map of Maryland showing each county and county seat is depicted in Exhibit 2.1.

Unlike Maryland's municipal corporations, which were established exclusively to meet parochial needs, counties have traditionally served two roles simultaneously – a provider of local services and an administrative arm of the State. In the first role, the form and extent of county government throughout the State developed based on local needs and on economic, geographic, and population differences. When these differences are considered collectively, they contribute to Maryland's reputation as "America in miniature." In the second role, counties have served as a mechanism to provide services of statewide concern throughout each region of the State.

Today, Maryland's counties operate under one of three forms of government: traditional commission government, charter home rule, and code home rule. This chapter provides a brief history and profile of each county and reviews selected demographic information. A general overview of county government structure is then provided. This overview discusses the three forms of county government and how they relate to the authority of a county. Because Baltimore City operates as both a county and municipality but is treated as a county for most purposes under State law, Baltimore City's governmental structure is reviewed in conjunction with charter counties.

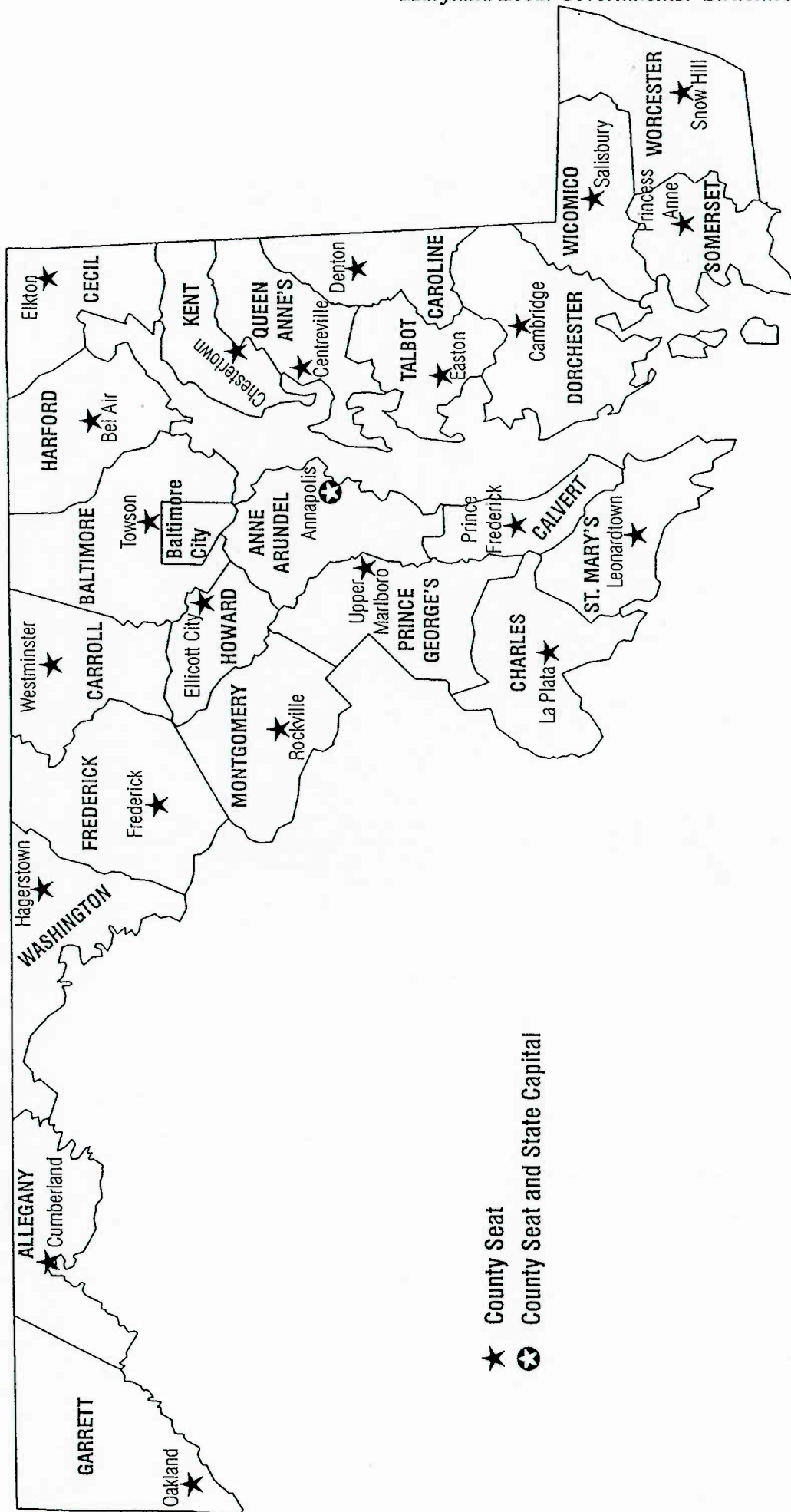
The interrelationship of county government and the General Assembly is addressed in Chapter 5. For an extensive discussion of county services and finances, see *Government Services in Maryland*, Volume II and *Maryland Local Government: Revenues and State Aid*, Volume VII of the Legislative Handbook Series, respectively.

### History and Development of Maryland's Counties and Baltimore City

Since the landing of the first English settlers in 1634, Maryland has evolved into a State with 23 counties and the City of Baltimore. Eleven of Maryland's counties were created in the 17th century. Eight counties and Baltimore City were created in the 18th century and four counties were created in the 19th century. The last county created in Maryland was Garrett County, which was established in 1872. A brief history and overview of each county with current demographic information is provided below.



Exhibit 2.1









## **Allegany County**

Allegany County, located in central Western Maryland, was created out of Washington County by Chapter 29 of 1789. The name “Allegany” comes from “Oolikhanna,” an Indian term meaning “beautiful stream.” Allegany County consists of 425 square miles. To its east is Washington County, to its north is Pennsylvania, and to its west is Garrett County. To the south of Allegany County is the north branch of the Potomac River, separating Maryland and West Virginia. Cumberland, one of seven municipalities in the county, is the county’s largest municipality and serves as the county seat.

Traditionally, the county has been a manufacturing and transportation center. Its role in our nation’s transportation history plays an important part in the county’s tourism industry today. The C & O Canal National Historic Park, Canal Place, and the Rocky Gap Lodge and Golf Resort, featuring a Jack Nicklaus signature golf course, are located in the county. In addition, the Western Maryland Scenic Railroad offers rides between historic Cumberland and Frostburg. Major employers in the county include Alliant Tech Systems, CSX Transportation, Frostburg State University, Western Maryland Health Systems, and Westvaco.

Since 1974 Allegany County has operated as a code home rule county, governed by three county commissioners. Allegany County’s official website is found at <http://gov.allconet.org>.

## **Anne Arundel County**

Anne Arundel County was created by Chapter 8 of 1650 (April Session). The county was named for Lady Anne Arundell, the wife of Cecilius Calvert, Second Lord Baltimore and founder of the Maryland colony. Anne Arundel County consists of 416 square miles. The county borders the western shore of the Chesapeake Bay. To the south of the county is Calvert County and to the southwest is Prince George’s County. To the north is Baltimore City and to the northwest are Baltimore and Howard counties. Annapolis serves as the State capital as well as the county seat.

Located in the Washington/Baltimore corridor, Anne Arundel County is home to the Baltimore-Washington International (BWI) Airport. The BWI area is the county’s commercial and industrial center supporting over 50 percent of all jobs and companies in the county. Today the county’s economy includes high technology, communications, computer-support services, and distribution companies. Major employers in the county include Allegis Group, Anne Arundel Health System, ARINC, CIENA, Constellation Energy Group, National Security Agency, Northrop Grumman, North Arundel Health System, Southwest Airlines, and Verizon. Anne Arundel County is known for its historic landmarks, waterfront



communities, crabbing, and sailing. The Annapolis historic district serves as a major tourist attraction for both the State and the county. Fort Meade, the county's second largest employer, and the United States Naval Academy are located in the county.

In 1947 Anne Arundel became the first county to use a county manager form of government, a structure that was authorized by the General Assembly, and which constituted a significant departure from traditional county government. Since 1964, however, Anne Arundel County has been a charter county, governed by an elected executive and a seven-member council. Anne Arundel County's official website is found at <http://www.co.anne-arundel.md.us/>.

## **Baltimore City**

Baltimore City was first incorporated by Chapter 68 of 1796. It became an independent unit separate from Baltimore County in 1851. Its name was derived from the Proprietary's Barony in Ireland. Baltimore City consists of 81 square miles. Baltimore City is bordered by Baltimore County on its north, east, and west, and by Anne Arundel County on its south. The Patapsco River provides access to the Port of Baltimore from the Chesapeake Bay.

Among U.S. cities, Baltimore has the 17th largest population. Baltimore City is becoming a life sciences capital with facilities such as the Maryland Biocenter at Johns Hopkins Bayview and the Medical Biotechnology Center at the University of Maryland, Baltimore campus. Development at the Inner Harbor and new sports arenas have transformed the city into a major tourism center. Premier attractions include Oriole Park at Camden Yards, Ravens' Stadium, National Aquarium, Maryland Science Center, Great Blacks in Wax Museum, Pier 6 Concert Pavilion, Maritime Museum, Port Discovery, Harborplace, and Power Plant. Leading cultural attractions include Walters Art Gallery, Baltimore Museum of Art, Peabody Conservatory, and Baltimore Symphony Orchestra. Major employers in Baltimore City include Baltimore Gas and Electric, Bank of America, General Motors, Johns Hopkins Institutions, Lifebridge Health, and University of Maryland Medical System.

Baltimore City is governed by a mayor and a 19-member council. Baltimore City's official website is found at <http://www.ci.baltimore.md.us/>.

## **Baltimore County**

Although the legal origin of Baltimore County is unknown, it has existed since 1659. The name of the county was derived from the Proprietary's Barony in Ireland in the county of Longford. Baltimore County consists of 599 square miles. To the north is Pennsylvania;



to the east is Harford County and the Chesapeake Bay; to the west are Carroll and Howard counties. To the south, Baltimore County borders three sides of Baltimore City and a portion of Anne Arundel County. Since 1854 the county seat has been Towson. There are no municipal corporations located entirely within Baltimore County; however, a part of the Town of Hampstead, located primarily in Carroll county, extends into the county's boundaries.

Baltimore County has a highly diversified economy that ranges from industrial facilities located in Dundalk/Sparrows Point to numerous high technology centers located near the University of Maryland Baltimore County. The Timonium/Hunt Valley corridor offers a thriving technology community next to rolling hills and horse farms. Other business centers include Owings Mills, Towson, and White Marsh. The county is home to many Fortune 500 headquarters. Major employers in the county include Baltimore Gas and Electric, Bethlehem Steel, CareFirst BlueCross BlueShield, Greater Baltimore Medical Center, McCormick and Company, T. Rowe Price, and Verizon.

Since 1956 Baltimore County has been a charter county, governed by an elected executive and a seven-member council. Baltimore County's official website is found at <http://www.co.ba.md.us/>.

## **Calvert County**

Calvert County, in Southern Maryland, was created by Order in Council in 1654. Known as Patuxent County until 1658, its current name is derived from the family name of Lord Baltimore, the Proprietary of the Maryland colony. Calvert County, the smallest county in Maryland, consists of 215 square miles. To the north of Calvert County is Anne Arundel County; to its east is the Chesapeake Bay; to its west and south are Prince George's, Charles, and St. Mary's counties. Prince Frederick serves as the county seat. Although Prince Frederick is not a municipal corporation, there are two municipalities in the county, North Beach and Chesapeake Beach.

Traditionally agriculture and seafood have been mainstays of Calvert County's economy. Today, it is the fastest growing county in the State, best known for its attractive location on the Chesapeake Bay and Patuxent River. The county provides residents and visitors with excellent recreational opportunities such as boating, sailing, fishing, crabbing, and swimming. The community of North Beach boasts an expansive boardwalk along the bay. The county is home to the Calvert Marine Museum and Drum Point Lighthouse in Solomons. In addition, the State's only nuclear power plant is located in the county. The public school system is the county's largest employer, and the county government is the fourth largest employer. Other major employers in the county include ARC of Southern Maryland, Calvert Cliffs Nuclear Power Plant, Calvert Memorial Hospital, and DynCorp.



The county has a commission government and is governed by five county commissioners. Calvert County's official website is found at <http://www.co.cal.md.us>.

## **Caroline County**

Caroline County was created from Dorchester and Queen Anne's counties by Chapter 10 of 1773. The county was named for Lady Caroline Eden, the daughter of Charles Calvert, Fifth Lord Baltimore, and wife of Robert Eden, Maryland's last colonial governor. Caroline County consists of 320 square miles. To the east of Caroline County is Delaware; to the north and northwest is Queen Anne's County; to the southwest is Talbot County. Dorchester County borders Caroline County to the south. Caroline County is the only landlocked county on Maryland's Eastern Shore. Denton, the largest of ten municipalities in the county, serves as the county seat.

Farming is a major economic activity in the county with the county ranking first in the State in the production of vegetables. Manufacturing accounts for approximately 19 percent of total employment. Major employers in the county include Interactive Marketing Services, Maryland Plastics, Mulholland-Harper, Solo Cup, and Tri-Gas & Oil Company. Tuckahoe and Martinak State Parks provide opportunities for hiking, camping, canoeing, and fishing. The Museum of Rural Life in Denton shows the effect of world events on the people of rural Caroline County over the course of three hundred years. Caroline County has the distinction of being the birthplace of Frederick Douglass, the famous African American writer and abolitionist.

Since 1984 Caroline County has operated as a code home rule county, governed by three county commissioners. Caroline County's official website is found at <http://www.carolinemd.org>.

## **Carroll County**

Carroll County was established in 1837 out of Baltimore and Frederick counties by Chapter 256 of 1835 and confirmed by Chapter 19 of 1836. The county was named for Charles Carroll of Carrollton, a Revolutionary War statesman and a Maryland signer of the Declaration of Independence. Carroll County consists of 449 square miles. To its north is Pennsylvania; to its west is Frederick County; to its east is Baltimore County. Howard County lies to the south of Carroll County. Westminster, the largest of eight municipalities in the county, serves as the county seat.

Carroll County is particularly noted for its antique shops, gift boutiques, historical sites, bookstores, and art galleries. Each year people throughout Maryland come to Carroll County to enjoy its farmers' markets and festivals. Agriculture, especially the dairy industry, remains an important part of the local economy; however, the role of the commercial and



industrial sectors has increased significantly in the county. Major employers in the county include Black and Decker, EVAPCO, London Fog, Northrop Grumman, and Random House.

The county has a commission government and is governed by three county commissioners. Carroll County's official website is found at <http://ccgov.carr.org>.

## **Cecil County**

Cecil County, in the northeast corner of the State, was created out of Baltimore and Kent counties by proclamation of the Governor in 1674. Cecil County was named for Cecilius Calvert, Second Lord Baltimore, and founder of the Maryland colony. The county consists of 348 square miles. To the north is Pennsylvania and to the east is Delaware. Harford County lies to its west and Kent County to the south. The southeastern border of Cecil County forms the northern shore of the Chesapeake Bay. Elkton, one of eight municipalities in the county, is the county's largest municipality and serves as the county seat.

Agriculture continues to be an important part of the local economy with farmland accounting for 70 percent of the county's land use. Five major rivers and the Chesapeake Bay provide year round recreational and hunting opportunities for residents and visitors of Cecil County. Centrally located between Baltimore and Philadelphia, Cecil County provides significant access to the Mid-Atlantic region and major industrial centers located along the Interstate 95 corridor. Major employers in the county include Air Products, DuPont, Fleming Companies, Konica, Montell USA, Perry Point Veterans' Hospital, Terumo Medical, Thiokol Corporation, Union Hospital, and W.L. Gore and Associates.

The county has a commission government and is governed by five county commissioners. Cecil County's official website is found at <http://www.ccgov.org>.

## **Charles County**

Charles County, in Southern Maryland, was established in 1658 by Order in Council. The county was named for Charles Calvert, Third Lord Baltimore. Charles County consists of 461 square miles. The county is bordered by the Potomac River to the west and south and Calvert County to the northeast. To the north is Prince George's County. St. Mary's County lies to the east. LaPlata, the largest of three municipalities in the county, serves as the county seat.

Traditionally, agriculture has been the mainstay of the economy. However, in recent years, the county has experienced significant business and residential growth. Major employers in the county include Applied Ordnance Technology, Automated Graphics Systems, Besche Oil, Chaney Enterprises, Mirant Mid-Atlantic LLC, Naval Surface Warfare



Center, Southern Maryland Oil, and TASCO. There are three State parks in the county and four natural wildlife areas. Charles County also has over 150 miles of shoreline providing many opportunities for boating and fishing.

The county has a commission government and is governed by five county commissioners. Charles County's official website is found at <http://www.govt.co.charles.md.us>.

### **Dorchester County**

Although the legal origin of Dorchester County is unknown, it has existed since 1668. Dorchester County was named for the Earl of Dorset, a family friend of the Calverts. The county consists of 558 square miles. Bordering the county on the west and southwest is the Chesapeake Bay, just south of the Choptank River. To the north is Talbot County and to the northeast is Caroline County; to the east are Delaware and Wicomico County. Cambridge, the largest of nine municipalities in the county, serves as the county seat.

Agriculture and seafood have been the economic mainstays of the county. However, manufacturing accounts for 32 percent of total employment. Major employers in the county include Airpax Corporation, Allen Family Foods, Cambridge Incorporated, Coldwater Seafood Corporation, Hi-Tech Interstate Plastics, Inc., Interstate Corrpac, Mail-Well Graphics, Maryland Wire Belts, Inc., Nabisco Foods, and Regina USA. The county is also home to many wildlife refuge areas including Taylors Island, LeCompte, and Blackwater National Wildlife Refuge.

The county has a commission government and is governed by five county commissioners. Dorchester County's official website is found at <http://www.dorchester.commissioners.net>.

### **Frederick County**

Frederick County, in the foothills of Western Maryland's mountains, was created out of Baltimore and Prince George's counties by Chapter 15 of 1748. The county probably was named for Frederick Calvert, the sixth Lord Baltimore. Frederick County is Maryland's largest county, consisting of 663 square miles. To the north is Pennsylvania; to the west, Washington County; and to the east, Carroll County. Montgomery County borders Frederick County to the south. The county is an approximately equal distance from Washington, DC and Baltimore City. The City of Frederick, the largest of 12 municipalities in the county, serves as the county seat.



Traditionally, agriculture has been the mainstay of the local economy. However, the county's proximity to Washington, DC and the Interstate 270 technology corridor has resulted in significant business and residential growth in recent years. Moreover, Frederick County is one of the fastest growing counties in the State. Frederick County remains Maryland's largest dairy producer, providing one-third of the State's milk production. Major employers in the county include Bechtel Power Corporation, Bio Whittaker, Frederick Memorial Hospital, First Nationwide Mortgage, Fort Detrick, MedImmune, and State Farm Insurance. Frederick County is also the home to Catocin National Park, site of the Camp David presidential retreat.

The county has a commission government and is governed by five county commissioners. Frederick County's official website is found at <http://www.co.frederick.md.us/>.

## **Garrett County**

Garrett County, Maryland's newest and western-most county, was created out of Allegany County by Chapter 212 of 1872. The county was named for John Work Garrett, one-time president of the Baltimore and Ohio Railroad. Garrett County consists of 648 square miles. To the north is Pennsylvania; to the west and southeast is West Virginia. Allegany County lies to the east. Oakland, one of eight municipalities in the county, serves as the county seat. Mountain Lake Park is the county's largest municipality.

Parks, lakes, and publicly-owned forest land are found throughout Garrett County. With Deep Creek Lake, Wisp Ski Resort, and numerous other recreational opportunities, Garrett County is sometimes referred to as "Maryland's mountaintop playground." Agriculture and coal mining are also important parts of the local economy. Major employers in the county include Fechheimer, RHI Refractories, Mettiki Coal Corporation, Southern Garrett Business and Technology Park, and The Data Entry Company.

The county has a commission government and is governed by three county commissioners. Garrett County's official website is found at <http://www.co.garrett.md.us/>.

## **Harford County**

Harford County was created out of Baltimore County by Chapter 6 of 1773. The county was named for Henry Harford, last Proprietary of Maryland. The county consists of 440 square miles. To the north is Pennsylvania; to the west is Baltimore County; to the east is Cecil County. On the southeast, Harford County borders the Chesapeake Bay. Bel Air, one of three municipalities in the county, serves as the county seat. Aberdeen is the county's largest municipality.



The county is located between Baltimore and Philadelphia and includes the Interstate 95 corridor, along which the county's major industrial centers are located. Harford County is home to the U.S. Army Aberdeen Proving Grounds which is a major governmental employer. Major private sector employers include Frito-Lay, GAP Atlantic Distribution Center, Michel Distribution, Rite Aid Mid Atlantic Distribution Center, Saks Fifth Avenue, and Upper Chesapeake Health Systems. Since 1972 it has been a charter county governed by an elected executive and a seven-member council. Harford County's official website is found at <http://www.co.ha.md.us/>.

### **Howard County**

Howard County, located between Washington, DC and Baltimore City, was created out of Anne Arundel County by Chapter 22 of 1838 and confirmed by Chapter 50 of 1839. Howard County was named for John Eager Howard, an officer in the Revolutionary War and a Governor of Maryland. The county consists of 252 square miles. To the north are Baltimore and Carroll counties; to the west is Montgomery County. Anne Arundel and Prince George's counties border Howard County to the southeast. Although there are no municipal corporations within the county, over a third of the county's population resides within the planned community of Columbia. Ellicott City serves as the county seat.

Howard County is one of the fastest growing counties in the State and has a diverse economic base, including biotechnology companies, research and development firms, telecommunication companies, and wholesale distributors. The county public school system is the largest employer, and the county government is the third largest employer. Other major employers in the county include the Columbia Association, Corvis Corporation, Giant Food, Howard County General Hospital, Johns Hopkins Applied Physics Laboratory, and Magellan Health Services. Howard County is also known for historic Savage Mills and Ellicott City. These former mill towns have been renovated into unique marketplaces featuring antique dealers, artisans, and retailers. Cultural events include concerts at the 14,200-seat Merriweather Post Pavilion.

Since 1968 it has been a charter county governed by an elected executive and a five-member council. Howard County's official website is found at <http://www.co.ho.md.us/>.

### **Kent County**

Kent County was first mentioned as a county in 1642 when the Governor and council appointed commissioners for the Isle and County of Kent. The county was named for a county of the same name bordering the English Channel in southeast England. Kent County consists of 279 square miles. Kent County borders the Chesapeake Bay to the west and



southwest. To the north is Cecil County; to the south is Queen Anne's County. Kent County shares its eastern boundary with Delaware. Chestertown, the largest of the five municipalities in the county, serves as the county seat.

A significant portion of Kent County is devoted to agriculture. County agricultural products include corn, milk, soybeans, and vegetables. Major employers in the county include Angelica Nurseries, Chestertown Foods, David A. Bramble, Inc., Dixon Valve and Coupling, Kent and Queen Anne's Hospital, Upper Shore Community Mental Health Center, and Washington College. Established in 1782, Washington College is the 10th oldest college in the nation.

Since 1970 Kent County has operated as a code home rule county, governed by three county commissioners. Kent County's official website is found at <http://www.kentcounty.com>.

## **Montgomery County**

Montgomery County was created out of Frederick County by resolve of the Constitutional Convention of 1776. The county was named for Richard Montgomery, a general in the Revolutionary War. The county consists of 496 square miles. Montgomery County borders Washington, DC to its south and the Potomac River to its southwest. To the northwest is Frederick County, to the northeast is Howard County, and to the southeast is Prince George's County. Rockville, the largest of the 19 municipalities in the county, serves as the county seat.

Montgomery County is the nation's third largest biotech center and home to world-famous Celera Genomics, the company that helped decode the human genome. The county is also home to 19 major federal research and development installations, including the Food and Drug Administration, the National Institutes of Health (NIH), the National Institute of Standards and Technology, and the National Oceanic and Atmospheric Administration. NIH is the county's largest employer. Major private sector employers in the county include Acterna, Aspen Systems Corporation, Discovery Communications, GE Global Exchange Services, Hughes Network Systems, Human Genome Services, IBM, the Institute for Genomic Research, Lockheed Martin/COMSAT, Marriott International, and Verizon. The county's population is among the most affluent and diverse in the country.

In 1948 Montgomery County became the first county to adopt charter home rule. Initially, it had a council/manager governmental structure. Today, it is governed by an elected executive and a nine-member council. Montgomery County's official website is found at <http://www.co.mo.md.us>.



## **Prince George's County**

Prince George's County was created out of Calvert and Charles counties by Chapter 13 of 1695 (May Session). The county was named for Prince George of Denmark, who was the husband of Queen Anne. Prince George's County consists of 485 square miles. Prince George's County borders Washington, DC and the Potomac River to its west. To the northwest is Montgomery County; to the north, Howard County; and to the east, Anne Arundel and Calvert counties. To the south is Charles County. Upper Marlboro, one of 27 municipalities in the county, serves as the county seat.

Prince George's County is home to the University of Maryland, College Park, the University System of Maryland's flagship campus and the second largest employer in the county. The public school system is the largest employer. The county also includes numerous federal installations including Andrews Air Force Base (the third largest employer in the county), Army Research Laboratory, Beltsville Agricultural Research Center, NASA-Goddard Space Flight Center, U.S. Census Bureau, and the Internal Revenue Service. Other major private employers in the county include Aetna/U.S. Healthcare, Computer Sciences Corporation, DIGEX, Dimensions Healthcare System, Giant Food, Honeywell Technology Solutions, Raytheon Information Technology Systems, Safeway, Swales Aerospace, United Parcel Service, and Verizon. FEDEX Stadium, the home of the Washington Redskins, is also located in the county.

Since 1970 it has been a charter county governed by an elected executive and a nine-member council. Prince George's County's official website is found at <http://www.co.pg.md.us>.

## **Queen Anne's County**

Queen Anne's County was created by Chapter 3 of 1706. The county was named for Queen Anne, who ruled Great Britain during the period Maryland was governed as a royal colony rather than a proprietary province. The county consists of 372 square miles. Queen Anne's County borders the eastern shore of the Chesapeake Bay between the Chester River and Eastern Bay. To the north is Kent County; to the south is Talbot County. Delaware and Caroline County border Queen Anne's County on the east. Centreville, the largest of eight municipalities in the county, serves as the county seat.

Although Queen Anne's County has experienced significant growth, it has maintained a primarily agricultural and tourism-based economy. Wye Oak State Park, Tuckahoe State Park, and Wye Island Wildlife Refuge provide unique experiences to nature lovers. The county is also home to the Wildfowl Trust of North America. Major private employers in



the county include ConAgra, Delmarva Sash & Door, S.E.W. Friel, Sisk Mailing Service, Tidewater Publishing, and United Shellfish Company. In addition, a sizeable number of county residents commute to the Annapolis, Baltimore, and Washington, DC areas for jobs.

Since 1990 Queen Anne's County has operated as a code home rule county, governed by five county commissioners. Queen Anne's County's official website is found at <http://www.qac.org>.

### **St. Mary's County**

St. Mary's County, Maryland's first county, was established in 1637, probably by an order of the Governor. The county was named in honor of Mary, mother of Jesus. It was here that the Ark and Dove landed on March 25, 1634, and the county is considered Maryland's birthplace. St. Mary's County consists of 361 square miles. On its southern border is the Potomac River; to the east are the Patuxent River and the western shore of the Chesapeake Bay. Charles and Calvert counties border St. Mary's County on the north. The southern point of the county is where the Potomac River and Chesapeake Bay meet. Leonardtown, the only municipality in the county, serves as the county seat.

Traditionally, agriculture and seafood have been St. Mary's County's economic mainstays. However, the county has emerged as a world-class center for aviation and avionics research, development, and testing. The county is home to the Patuxent Naval Air Test Center, an installation that has prompted significant growth in the county as it has assumed additional responsibilities due to closure of other military installations around the country. The U.S. Naval Air Systems Command, the Naval Air Warfare Center Aircraft Division, as well as over 200 high-tech defense contractors are located in the county. The influx of technical jobs resulting from growth at the naval facilities has resulted in a significant increase in the median household income for county residents. Major employers in the county include BAE Systems, DynCorp, Eagan-McAllister Associates, Northrop Grumman, St. Mary's Hospital, and Veridian Engineering.

The county has a commission government and is governed by five county commissioners. St. Mary's County's official website is found at <http://www.co.saint-marys.md.us/>.

### **Somerset County**

Somerset County was created by an Order in Council in 1666. The county was named for Lady Mary Somerset, the sister of Lady Anne Arundell. The county consists of 327 square miles. To the west and south of Somerset County is the Chesapeake Bay; to the north is Wicomico County; to the east is Worcester County. Princess Anne serves as the county seat; the only other municipality is Crisfield.



The agriculture, seafood, and timber industries are important components of the local economy. Crisfield, the largest municipality in the county, serves as a major seafood processing center. Major private employers in the county include Lankford/SYSCO Foods, McCready Hospital, Manokin Manor Nursing Home, Mountaire Farms, Peninsula Bank, and the Rubberset Company. State facilities include the University of Maryland Eastern Shore and the Eastern Correctional Institution, which together employ about 2,000 individuals, making the State the largest employer in the county. The county is noted for its water-oriented activities, natural wildlife sites, and blue crabs. Each year the county holds the Crisfield Hard Crab Derby which celebrates the county's rich seafood heritage.

The county has a commission government and is governed by five county commissioners. The official website for the Somerset County Economic Development Commission is found at [http://www.skipjack.net/le\\_shore/somerset/index.html](http://www.skipjack.net/le_shore/somerset/index.html).

## **Talbot County**

Although the legal origin of Talbot County is unknown, it has existed since 1661. It was probably established by an order of the Governor in council. The county was named for Lady Grace Talbot, the sister of the second Lord Baltimore. The county consists of 269 square miles. To the west of Talbot County is the Chesapeake Bay; to the east is Caroline County. The county is bordered by Queen Anne's County to the north and by Dorchester County and the Choptank River to the south. Easton, the largest of five municipalities in the county, serves as the county seat.

Talbot County contains numerous historical sites and landmarks making the county a popular tourist destination. Easton's historic downtown reflects the city's colonial days when the shipbuilding industry flourished. Today, people can relive this earlier time by visiting the Chesapeake Bay Maritime Museum located in St. Michaels. The Waterfowl Festival is held each November, attracting thousands of visitors to the county. Due to its natural setting along the bay, the county has focused on environmental science and related information technology companies for new employment growth. Manufacturing remains a significant part of the local economy, accounting for 16 percent of total employment. Major employers in the county include Allen Family Foods, Black & Decker, Cadmus Journal Services, and Easton Memorial Hospital.

Since 1973 it has been a charter county governed by a five-member council which appoints a county manager. Talbot County's official website is found at <http://www.talbgov.org>.



## **Washington County**

Washington County was created out of Frederick County by resolve of the Constitutional Convention of 1776. The county was named for George Washington. Washington County consists of 458 square miles. To the west is Allegany County; to the east is Frederick County. Pennsylvania borders the county on the north, and to the south is the Potomac River. Hagerstown, the largest of nine municipalities in the county, serves as the county seat.

Washington County is home to the Antietam National Battlefield, C&O Canal National Park, and Fort Frederick State Park. Traditionally, agriculture has been an economic mainstay. However, with the intersection of Interstates 70 and 81, the area has attracted major financial, industrial, and distribution centers. Major employers in the county include Citicorp Credit Services, First Data Merchant Services, Garden State Tanning, Mack Trucks, Phoenix Color Corporation, Staples Distribution Center, and Washington County Health Systems.

The county has a commission government and is governed by five county commissioners. Washington County's official website is found at <http://pilot.wash.lib.md.us/washco>.

## **Wicomico County**

Wicomico County was created out of Somerset and Worcester counties as part of the adoption of the Maryland Constitution in 1867. The county was named after the Wicomico River, a name derived from the Indian words “wicko” and “mekee”, meaning a “place where houses are built.” The county consists of 377 square miles. To the east and southeast is Worcester County; to the southwest is Somerset County; to the west is Dorchester County. Delaware lies to the north. Salisbury, the largest of eight municipalities in the county, serves as the county seat.

Wicomico County is the leading county in the State in terms of agricultural production. However, it also is the commercial/industrial center of the Lower Eastern Shore. Major employers in the county include Filtronic Comtek, Harvard Custom Manufacturing, K & L Microwave, Peninsula Regional Medical Center, Perdue Farms, Salisbury University, Standard Register, Tishcon Laboratories, U.S. Marine, VPI-Mirrex, and Wheaton Industries. The county is home to Salisbury State University and the Delmarva Shorebirds, a Class A minor league affiliate of the Baltimore Orioles.

Since 1964 it has been a charter county governed by a seven-member council which appoints an administrative director. Wicomico County's official website is found at



<http://www.co.wicomico.md.us/>.

## **Worcester County**

Worcester County was created out of Somerset County by Chapter 19 of 1742. The county was named for the Earl of Worcester. Worcester County consists of 473 square miles. To the north are Delaware and Wicomico County; to the west are Wicomico and Somerset counties; to the south is Virginia. The Atlantic Ocean is to the east. Snow Hill, one of four municipalities in the county, serves as the county seat. Worcester County is the second fastest growing county in the State.

Ocean City is the county's largest municipality and serves as the State's most prominent tourist attraction, offering cruises, fishing, golfing, surfing, amusement parks, and sunbathing. Worcester County is host to the White Marlin and Tuna Tournament, Delmarva Birding Weekend, and World Wildfowl Carving Competition. Besides tourism, chicken growing and processing is the major industry. Major employers in the county include Bel-Art Products, Candy Kitchen Shoppes, Perdue Farms, and Tyson Foods.

Since 1976 Worcester County has operated as a code home rule county, governed by five county commissioners. Worcester County's official website is found at <http://www.co.worcester.md.us>.

## **County Demographics**

Maryland is a very diverse State encompassing the mountainous regions of Western Maryland, waterfront communities along the Chesapeake Bay and Eastern Shore, historic towns, rolling hills and horse farms in the north-central region of the State, and the urban center along the Baltimore-Washington corridor.

In land area, Maryland's counties range from Calvert County with 215 square miles to Frederick County with 663 square miles. According to the 2000 Census, 5.3 million people live in Maryland. Montgomery County is the State's most populated county with 873,000 residents, and Kent County has the smallest population with 19,000 residents. Baltimore City, although fourth in total population, has the highest population density in the State. Montgomery County is second in terms of population density. Garrett County has the lowest population density.

Racial diversity has increased throughout Maryland. As shown in Exhibit 2.2, minorities constitute 38 percent of the State's population. African Americans are the largest racial minority in Maryland, composing 27.9 percent of the State's population. Hispanics and Asians make up 4.3 and 4.0 percent of the State's population, respectively. Montgomery County is the most diverse county in the State

### **Maryland's Racial Composition**

White	62.1%
African American	27.9%
Hispanics	4.3%
Asians	4.0%



with Hispanics and Asians each composing about 11 percent of the county's population.

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**Exhibit 2.2**  
**Maryland Demographic Information**

<u>County</u>	<u>Land Area (Sq. Miles)</u>	<u>Population 2000 Census</u>	<u>Population Density*</u>	<u>White</u>	<u>African American</u>	<u>Hispanic</u>	<u>Asian</u>
Allegany	425	74,930	176	92.5%	5.3%	0.8%	0.5%
Anne Arundel	416	489,656	1,177	79.8%	13.6%	2.6%	2.3%
Baltimore City	81	651,154	8,059	31.0%	64.3%	1.7%	1.5%
Baltimore	599	754,292	1,260	73.4%	20.1%	1.8%	3.2%
Calvert	215	74,563	346	83.0%	13.1%	1.5%	0.9%
Caroline	320	29,772	93	80.7%	14.8%	2.7%	0.5%
Carroll	449	150,897	336	95.1%	2.3%	1.0%	0.8%
Cecil	348	85,951	247	92.5%	3.9%	1.5%	0.7%
Charles	461	120,546	261	67.3%	26.1%	2.3%	1.8%
Dorchester	558	30,674	55	68.8%	28.4%	1.3%	0.7%
Frederick	663	195,277	295	88.1%	6.4%	2.4%	1.7%
Garrett	648	29,846	46	98.4%	0.4%	0.4%	0.2%
Harford	440	218,590	496	85.8%	9.3%	1.9%	1.5%
Howard	252	247,842	984	72.6%	14.4%	3.0%	7.7%
Kent	279	19,197	69	78.4%	17.4%	2.8%	0.5%
Montgomery	496	873,341	1,763	59.5%	15.1%	11.5%	11.3%
Prince George's	485	801,515	1,651	24.3%	62.7%	7.1%	3.9%
Queen Anne's	372	40,563	109	88.4%	8.8%	1.1%	0.6%
St. Mary's	361	86,211	239	80.4%	13.9%	2.0%	1.8%
Somerset	327	24,747	76	55.8%	41.1%	1.3%	0.5%
Talbot	269	33,812	126	81.2%	15.4%	1.8%	0.8%
Washington	458	131,923	288	89.1%	7.8%	1.2%	0.8%
Wicomico	377	84,644	224	71.5%	23.3%	2.2%	1.7%
Worcester	473	46,543	98	80.4%	16.7%	1.3%	0.6%
<b>Maryland</b>	<b>9,774</b>	<b>5,296,486</b>	<b>542</b>	<b>62.1%</b>	<b>27.9%</b>	<b>4.3%</b>	<b>4.0%</b>
<b>United States</b>		<b>281,421,906</b>		<b>69.1%</b>	<b>12.3%</b>	<b>12.5%</b>	<b>3.6%</b>

\*Per Square Mile

Source: United States Census Bureau, Department of Legislative Services



<b>Fastest Growing Counties 1990-2000</b>	
1. Calvert	45%
2. Worcester	33%
3. Howard	32%
4. Frederick	30%
5. Carroll	22%
6. Cecil	21%
7. Harford	20%
8. Queen Anne's	20%
9. Charles	19%
10. Anne Arundel	15%
11. Montgomery	15%

Growth remains a key issue as Maryland's population continues to expand. Since 1990, the State's population has increased by 11 percent. Calvert County has led the State in population growth over the last ten years with a growth rate of 45 percent. Worcester, Howard, and Frederick counties had growth rates exceeding 30 percent. When growth is measured in absolute numbers of residents, Montgomery County leads the State, followed by Prince George's, Anne Arundel, Baltimore, and Howard counties. Allegany County and Baltimore City are the only jurisdictions that have lost population since the 1990 census.

The State's population growth since 1950 has been significant but not uniform. Exhibit 2.3 shows that the location of population centers has shifted dramatically over the last 50 years. In 1950 the State population was 2.3 million, and 40 percent of State residents lived in Baltimore City. Baltimore County was the second most populous jurisdiction, with 270,273 people. The entire Baltimore region, including Anne Arundel, Harford, and Howard counties, included 60 percent of the State's population. The national capital region of Montgomery and Prince George's counties included only 15.3 percent of the population.

Today only 45 percent of the State's population live within the Baltimore region, and 32 percent live within the national capital region. Within the Baltimore region, there has been a major shift in population from the central city to the outlying counties. Baltimore City has experienced a 30 percent decline in its population over the last 50 years. Today, only 12 percent of the State's population resides in the city. In contrast, the combined population in Anne Arundel, Baltimore, Harford, and Howard counties has increased by 170 percent. Other areas that have experienced significant growth include Southern Maryland, the north-central region of the State (Carroll and Frederick counties), and Cecil, Queen Anne's, and Worcester counties on the Eastern Shore.



The growing concentration of population along the corridor from Washington, DC to Baltimore to Wilmington, Delaware was in evidence before America's involvement in World War II. Exhibit 2.3 shows that while there was some growth in the State's western counties (Garrett and Washington), Allegany County lost population between 1950 and 1998. In 1950 Allegany, Garrett, and Washington counties composed 8 percent of the State's population. In 2000 those same counties compose only about 4.5 percent of the State's population. Similarly, in 1950 the nine Eastern Shore counties composed 9 percent of the State's population. By 2000 those same counties had 7.5 percent of the State's population.

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**Exhibit 2.3**
**Maryland Population Growth by County**

	<b><u>1950</u></b>	<b><u>Percent</u></b>	<b><u>1990</u></b>	<b><u>Percent</u></b>	<b><u>2000</u></b>	<b><u>Percent</u></b>
	<b><u>Census</u></b>	<b><u>of Total</u></b>	<b><u>Census</u></b>	<b><u>of Total</u></b>	<b><u>Census</u></b>	<b><u>of Total</u></b>
<b>Baltimore Region</b>	<b>1,412,274</b>	<b>60.3%</b>	<b>2,224,847</b>	<b>46.5%</b>	<b>2,361,534</b>	<b>44.6%</b>
Anne Arundel	117,392	5.0%	427,239	8.9%	489,656	9.2%
Baltimore City	949,708	40.5%	736,014	15.4%	651,154	12.3%
Baltimore	270,273	11.5%	692,134	14.5%	754,292	14.2%
Harford	51,782	2.2%	182,132	3.8%	218,590	4.1%
Howard	23,119	1.0%	187,328	3.9%	247,842	4.7%
<b>Central Maryland</b>	<b>107,194</b>	<b>4.6%</b>	<b>273,580</b>	<b>5.7%</b>	<b>346,174</b>	<b>6.5%</b>
Carroll	44,907	1.9%	123,372	2.6%	150,897	2.8%
Frederick	62,287	2.7%	150,208	3.1%	195,277	3.7%
<b>Eastern Shore</b>	<b>210,623</b>	<b>9.0%</b>	<b>343,769</b>	<b>7.2%</b>	<b>395,903</b>	<b>7.5%</b>
Caroline	18,234	0.8%	27,035	0.6%	29,772	0.6%
Cecil	33,356	1.4%	71,347	1.5%	85,951	1.6%
Dorchester	27,815	1.2%	30,236	0.6%	30,674	0.6%
Kent	13,677	0.6%	17,842	0.4%	19,197	0.4%
Queen Anne's	14,579	0.6%	33,953	0.7%	40,563	0.8%
Somerset	20,745	0.9%	23,440	0.5%	24,747	0.5%
Talbot	19,428	0.8%	30,549	0.6%	33,812	0.6%
Wicomico	39,641	1.7%	74,339	1.6%	84,644	1.6%
Worcester	23,148	1.0%	35,028	0.7%	46,543	0.9%
<b>National Capital</b>	<b>358,583</b>	<b>15.3%</b>	<b>1,485,580</b>	<b>31.1%</b>	<b>1,674,856</b>	<b>31.6%</b>
Montgomery	164,401	7.0%	762,875	16.0%	873,341	16.5%
Prince George's	194,182	8.3%	722,705	15.1%	801,515	15.1%
<b>Southern Maryland</b>	<b>64,626</b>	<b>2.8%</b>	<b>228,500</b>	<b>4.8%</b>	<b>281,320</b>	<b>5.3%</b>
Calvert	12,100	0.5%	51,372	1.1%	74,563	1.4%



Charles	23,415	1.0%	101,154	2.1%	120,546	2.3%
St. Mary's	29,111	1.2%	75,974	1.6%	86,211	1.6%
<b>Western Maryland</b>	<b>189,701</b>	<b>8.1%</b>	<b>224,477</b>	<b>4.7%</b>	<b>236,699</b>	<b>4.5%</b>
Allegany	89,556	3.8%	74,946	1.6%	74,930	1.4%
Garrett	21,259	0.9%	28,138	0.6%	29,846	0.6%
Washington	78,886	3.4%	121,393	2.5%	131,923	2.5%
<b>Maryland</b>	<b>2,343,001</b>		<b>4,780,753</b>		<b>5,296,486</b>	

Source: United States Census Bureau

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## Economic Indicators

The economic vitality of local jurisdictions varies across the State. Baltimore City and many rural counties are plagued with below average employment growth, high unemployment, and low household incomes. As indicated in Exhibit 2.4, median household income ranges from \$79,900 in Howard County to \$27,900 in Allegany County. Montgomery County ranks second in median income with a level of \$70,100. Six counties (Allegany, Dorchester, Garrett, Somerset, Wicomico, and Worcester) and Baltimore City had a median household income at or below 67 percent of the statewide average of county medians.

One measure for comparing county wealth is the assessable base of a county on a per capita basis. The assessable base measures both real and personal property bases in each county. Worcester County, due to its ocean resort development in Ocean City, had the highest per capita assessable base at \$143,329, which is 224 percent of the statewide average. Talbot County, due to its numerous waterfront estates, had the second highest at \$110,614, which is 173 percent of the statewide average. Baltimore City had the lowest per capita assessable base at \$29,387, or 46 percent of the statewide average.

The homeownership rate in Maryland ranges from 50 percent in Baltimore City to 85 percent in Calvert County with the statewide average at 68 percent. Other than Calvert County, two jurisdictions (Carroll and Queen Anne's counties) had a homeownership rate above 80 percent.

The unemployment rate is the percentage of a county's total civilian labor force that is out of work. In 2001, the statewide unemployment rate averaged 3.9 percent, which is somewhat below the national rate of 4.8 percent (as reported by the Bureau of Labor Statistics). The per-county unemployment rate ranged from 2.2 percent in Montgomery County to 10.2 percent in Worcester County. Two localities (Dorchester and Worcester counties) had an unemployment rate that was twice the State average. The unemployment rate in tourism-dependent Worcester County experienced the greatest fluctuation, ranging from 19.3 percent in January to 3.6 percent in

### Unemployment Rate CY 2001

Maryland	3.9%
National	4.8%



August.

Maryland has one of the lowest poverty rates in the nation. Statewide the poverty rate totals 8.5 percent compared to 11.3 percent at the national level. Across the State, the poverty rate ranges from 3.8 percent in Carroll County to 22.9 percent in Baltimore City.

#### Lowest Poverty Rates

Carroll	3.8%
Howard	3.9%
Calvert	4.4%
Frederick	4.5%
Harford	4.9%

#### Highest Poverty Rates

Baltimore City	22.9%
Somerset	20.1%
Allegany	14.8%
Dorchester	13.8%
Garrett	13.3%

**Exhibit 2.4**  
**Maryland Economic Information**

<u>County</u>	<u>Household Income</u>		<u>Assessable Base</u>		<u>Homeownership</u>	<u>Unempl.</u>	<u>Poverty</u>
	<u>CY 2000</u>	<u>Percent of</u>	<u>FY 2002</u>	<u>Percent of</u>	<u>Rate</u>	<u>Rate</u>	<u>Rate</u>
	<u>Median</u>	<u>State Avg.</u>	<u>Per Capita</u>	<u>State Avg.</u>	<u>CY 2000</u>	<u>CY 2001</u>	<u>CY 1999</u>
Allegany	\$27,900	51%	\$34,962	55%	70.2%	7.3%	14.8%
Anne Arundel	65,200	119%	72,947	114%	75.5%	3.1%	5.1%
Baltimore City	33,900	62%	29,387	46%	50.3%	7.6%	22.9%
Baltimore	52,200	95%	58,945	92%	67.6%	4.2%	6.5%
Calvert	65,200	119%	80,399	126%	85.2%	2.4%	4.4%
Caroline	37,600	68%	44,174	69%	74.1%	4.9%	11.7%
Carroll	63,500	115%	63,707	100%	82.0%	2.7%	3.8%
Cecil	50,500	92%	56,989	89%	75.0%	5.4%	7.2%
Charles	62,800	114%	67,997	106%	78.2%	2.5%	5.5%
Dorchester	33,700	61%	50,920	80%	70.1%	8.9%	13.8%
Frederick	66,800	121%	67,356	105%	75.9%	2.7%	4.5%
Garrett	30,800	56%	66,444	104%	77.9%	7.4%	13.3%
Harford	61,200	111%	58,804	92%	78.0%	3.7%	4.9%
Howard	79,900	145%	87,292	137%	73.8%	2.5%	3.9%
Kent	41,800	76%	72,141	113%	70.4%	4.0%	13.0%
Montgomery	70,100	127%	93,868	147%	68.7%	2.2%	5.4%
Prince George's	56,900	103%	52,129	82%	61.8%	3.9%	7.7%
Queen Anne's	59,100	107%	81,965	128%	83.4%	3.1%	6.3%
St. Mary's	57,400	104%	60,588	95%	71.8%	2.7%	7.2%
Somerset	33,700	61%	29,535	46%	69.6%	7.4%	20.1%
Talbot	46,600	85%	110,614	173%	71.6%	3.0%	8.3%



Washington	41,500	75%	51,968	81%	65.6%	4.0%	9.5%
Wicomico	36,400	66%	46,650	73%	66.5%	5.3%	12.8%
Worcester	30,900	56%	143,329	224%	75.0%	10.2%	9.6%
<b>Maryland</b>	<b>\$55,000</b>	<b>100%</b>	<b>\$63,963</b>	<b>100%</b>	<b>67.7%</b>	<b>3.9%</b>	<b>8.5%</b>

Source: Department of Legislative Services, United States Census Bureau

## Voter Registration

One additional measure completes the county-by-county profile. Exhibit 2.5 provides the number of registered voters in each county as well as party affiliations as of May 31, 2002. While Democrats outnumber Republicans throughout the State by approximately 1.9 to 1, the pattern varies regionally. In Allegany, Carroll, Frederick, Garrett, Queen Anne's, Talbot, and Washington counties, registered Republicans outnumber registered Democrats. In other counties and Baltimore City, registered Democrats outnumber registered Republicans.

<b>Voter Registration</b>	
Democrats	56%
Republicans	30%
Other	14%



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**Exhibit 2.5**
**Voter Registration**

<u>County</u>	<u>Democratic</u>	<u>Republican</u>	<u>Libertarian</u>	<u>Other</u>	<u>Total</u>
Allegany	16,555	18,229	72	3,300	38,156
Anne Arundel	123,231	104,627	778	40,195	268,831
Baltimore City	230,597	26,819	363	21,003	278,782
Baltimore	245,362	111,379	886	43,601	401,228
Calvert	17,986	17,379	89	6,159	41,613
Caroline	6,243	5,187	66	1,634	13,130
Carroll	30,447	43,128	313	10,003	83,891
Cecil	18,948	15,408	164	6,737	41,257
Charles	29,241	22,833	98	8,665	60,837
Dorchester	8,809	5,474	32	1,542	15,857
Frederick	43,170	52,911	319	18,563	114,963
Garrett	4,588	9,606	33	941	15,168
Harford	57,166	50,313	324	13,434	121,237
Howard	67,827	51,699	344	24,678	144,548
Kent	5,260	3,724	31	1,058	10,073
Montgomery	244,627	126,607	911	87,167	459,312
Prince George's	261,381	48,176	342	48,526	358,425
Queen Anne's	9,524	10,358	71	2,717	22,670
St. Mary's	19,553	15,989	109	5,935	41,586
Somerset	6,807	3,506	22	1,136	11,471
Talbot	9,160	9,636	44	2,823	21,663
Washington	28,224	30,900	201	9,406	68,731
Wicomico	21,707	16,211	125	5,623	43,666
Worcester	14,714	10,873	55	4,010	29,652
<b>Maryland</b>	<b>1,521,127</b>	<b>810,972</b>	<b>5,792</b>	<b>368,856</b>	<b>2,706,747</b>

Source: Maryland State Board of Elections (May 31, 2002)



## **Formation and Alteration of Counties**

As the county-by-county historical overview indicates, counties were formed in different ways throughout Maryland's history. However, Article XIII of the Maryland Constitution (see Appendix 1) now prescribes the manner in which counties may be established and county boundaries altered.

Article XIII, Section 1 of the Constitution establishes minimum area and population standards for the establishment of new counties. A county may not be established in an area that is less than 400 square miles or that includes less than 10,000 inhabitants, nor may a new county be formed in a manner that would leave another county reduced in size or population below these amounts. Although the General Assembly is vested with authority to establish new counties or modify county boundaries, these changes require the approval of the majority of the voters residing within the affected area. The General Assembly may not impose additional referendum requirements beyond that prescribed by the Maryland Constitution. Otherwise, voters beyond the affected area would have veto authority over the decision of the voters residing within the affected area. (67 Op. Att'y Gen. 279 (1982)). The constitution makes clear that “[n]o county lines heretofore validly established shall be changed except in accordance with [Article XIII, Section 1 of the constitution].”

Formation of a new county in Maryland appears unlikely. The last county was established in 1872. However, occasionally questions arise concerning the modification of county lines. For example, until recently, the City of Takoma Park was located partly in Montgomery County and partly in Prince George's County. In 1994, after 12 years of debate, the General Assembly passed legislation that allowed the voters in each portion of Takoma Park to decide by referendum whether the county line should be altered in order to locate Takoma Park entirely within one county. In November 1995, the voters elected to place the municipality entirely within Montgomery County, and the county boundary change took effect July 1, 1997.

## **County Government**

In this section, the three forms of county government are reviewed: traditional commission government, charter home rule, and code home rule. Although Baltimore City has a unique structure, it will be reviewed in conjunction with charter home rule because it was granted authority to adopt or amend its own charter under Article XI-A of the Maryland Constitution (see Appendix 1).

Regardless of the form of county government, there are certain functions and services that are found in every county, although the level of services and the manner in which services are provided may vary. These county functions may be classified as either services



of statewide concern, whereby the county serves as an administrative arm of the State in the provision of services, or strictly local services that are required or expected in each county. Types of services that are provided at the local level include general government (i.e., executive/legislative, finance, legal services, personnel, and procurement), land use matters and regulation of development (i.e., planning and zoning, issuance of building permits and inspections), public safety (i.e., fire, police, emergency services, and corrections), public works (i.e., transportation, sanitation, and sewer and water), health and social services, primary/secondary education, community colleges, libraries, and recreation.

## **Commission Counties**

Until the mid-20th century every county in Maryland used a commission form of government and was governed by a board of county commissioners. Today only ten counties continue to operate under the county commission form of government.

### **History**

At the time the first colonial counties were formed, county courts served as the administrative units of county government. Chapter 53 of 1794 established levy courts, composed of the justices of the peace of the counties. The levy courts' duties were to meet and determine the necessary expenses of the county and to impose an assessment on property to defray county expenses. In 1827 boards of county commissioners began to administer county governments under authority of the General Assembly. The term "county commissioners" was first recognized in the Constitution of 1851. However, until the Constitution of 1867, county commissioners were simply administrative officers, in charge of county finances and the care of public roads. After the Constitution of 1867 was adopted, the General Assembly gradually expanded the authority of county commissioners.

#### **Commission Counties**

Calvert  
Carroll  
Cecil  
Charles  
Dorchester  
Frederick  
Garrett  
St. Mary's  
Somerset  
Washington

### **Constitutional/Statutory Authority**

Article VII, Section 2 of the Maryland Constitution (see Appendix 1) provides that the number, compensation, and powers and duties of the county commissioners "shall be such as now are or may be hereafter prescribed by law." This provision has been interpreted to mean that the General Assembly has full power to legislate for commission counties.

Article 25, Section 1 of the Annotated Code of Maryland provides that the county commissioners of each county are declared to be a corporation. Commission counties



generally have been granted extensive statutory authority to handle local matters under public general and public local laws. However, in many areas there are significant variations in the authority of individual commission counties. In interpreting the statutory authority of commission counties, the courts will strictly construe the scope of the authority granted.

In carrying out their duties, the county commissioners wear numerous hats. They act in legislative, executive or administrative, and quasi-judicial capacities. However, the line between these roles is often blurred. The day-to-day administration of county government varies among commission counties. In some cases, the county commissioners have delegated significant responsibility to a county administrator. In other commission counties, the commissioners have retained greater involvement in day-to-day operations.

### **Board Structure**

Article VII of the Maryland Constitution (see Appendix 1) vests in the General Assembly authority to determine the number of county commissioners in each commission county as well as the manner that county commissioners are elected. Nine of the commission counties have five county commissioners; the remaining commission counties have three commissioners. In some counties, commissioners are elected at-large; in other counties, commissioners are elected by district. Some commission counties elect commissioners at-large, but subject to a district residency requirement. Other commission counties use a combination of these approaches. Although the General Assembly has considerable discretion in determining the structure for individual commission counties, in 1968 the United States Supreme Court extended the constitutional principle of one person-one vote to county government. Under Article XVII of the Maryland Constitution (see Appendix 1), county commissioners are elected for four-year terms, coincident with the election of the Governor and members of the General Assembly.

### **Home Rule Movement**

In the past 20 years, only two counties have changed from commission government to home rule: Caroline County adopted code home rule in 1984, and Queen Anne's County adopted code home rule in 1990. Since 1990 at least five of the ten commission counties have considered home rule on one or more occasion. In each instance, the voters rejected the change, apparently satisfied that their commission form of government meets local needs.

### **Charter Counties**

In 1914 the General Assembly proposed a constitutional amendment that offered Maryland's counties the opportunity to adopt home rule. There were two primary reasons for the proposed amendment: (1) to reduce the back-up of unpassed measures on the final days



of the legislative session, a situation that had resulted in passage of legislation without proper scrutiny; and (2) to allow local legislation to be enacted solely by those directly affected, without interference by legislators from other regions of the State. Upon ratification by the voters in 1915, this amendment became Article XI-A of the Maryland Constitution (see Appendix 1).

### Constitutional/Statutory Authority

Article XI-A of the Maryland Constitution allows the voters of each county as well as Baltimore City to adopt a charter form of government under which a locally elected council is authorized to legislate on local matters, to the extent authorized by a grant of express powers from the General Assembly. Although Baltimore City adopted a charter form of government in 1918, it was not until 1948 that Montgomery County became the first county to adopt charter home rule. Today eight counties operate under charter home rule. These counties and the date that charter home rule was adopted are shown in the sidebar.

Charter Counties	
Montgomery	(1948)
Baltimore	(1956)
Anne Arundel	(1964)
Wicomico	(1964)
Howard	(1968)
Prince George's	(1970)
Harford	(1972)
Talbot	(1973)

Article XI-A, Sections 1 and 1A set forth alternative procedures for the adoption of charter home rule. Article XI-A, Section 2 mandates that the General Assembly provide a grant of express powers to charter counties by public general law. The General Assembly has complied with this mandate with the passage of Article 25A, Sections 4 and 5 of the Annotated Code of Maryland (the “Express Powers Act”). A county charter may not expand the powers granted to the county under the Express Powers Act. The right to alter the express powers is reserved to the General Assembly. Article XI-A, Section 3 requires that a county charter provide for an elective legislative body known as the county council, or in the case of Baltimore City, a city council, and allows for the election of an executive. It also vests legislative authority in the council, subject to certain limitations. Article XI-A, Section 3A provides options with which a charter may provide for the election of council members. Article XI-A, Section 4 restricts the General Assembly from enacting a public local law for a charter county on any matter covered by the Express Powers Act. Article XI-A, Section 5 prescribes the manner in which a charter may be amended. Article XI-A, Section 6 transfers from the General Assembly to the voters powers relating to the number, compensation, and powers and duties of the county governing body. However, such powers must be exercised through the charter and may not exceed powers granted to charter counties by the General Assembly. Article XI-A, Section 7 addresses petition requirements for purposes of the charter home rule amendment of the Constitution.



## **County Charter**

The charter of a county is often likened to a constitution. It establishes a framework for county government, subject to the Constitution and public general laws of the State. Although county charters vary, they generally cover legislative and executive functions and the structure and organization of government, including establishment of county offices, departments, and boards. County fiscal, personnel, purchasing, and ethics matters are often addressed. In some counties the charter limits the level of county debt and taxes.

Although the charter may prescribe certain limits affecting the operation of county government, the voters may not abate the constitutionally-prescribed role of the council through provisions of the charter. For example, a charter may authorize the citizens of a county to petition a legislative enactment of the council to referendum, similar to the constitutional right of the citizens of the State to petition certain legislation passed by the General Assembly to referendum. But a charter may not grant the citizens of the county the power of initiative. The power of initiative is inconsistent with the constitutionally-prescribed role of the council under Article XI-A, Section 3 of the Maryland Constitution. Moreover, the voters may not legislate through the charter amendment process. In September 1998 the Court of Appeals invalidated efforts by citizens in Harford County and Montgomery County to address certain matters through proposed charter amendments. The proposal put forth in Harford County would have allowed voters to decide whether to ban new development for a year. The proposal put forth in Montgomery County would have allowed the voters to ban speed bumps on residential streets.

The voters of a charter county do have the right to petition local laws to referendum. However, Article 25A, Section 8 of the Annotated Code of Maryland requires that the charter specify the types of laws that may be petitioned to referendum and whether portions of laws may be made subject to a petition.

## **Adoption of Charter Home Rule**

Article XI-A of the Maryland Constitution prescribes two methods of adopting charter home rule, the original procedure dating from 1915 and an alternative procedure that was adopted in 1970. Concern about the time required to complete the adoption of charter home rule led to adoption of the alternative procedure. However, the time a charter board has to prepare a proposed charter has been expanded twice. In 1915 when Article XI-A of the Constitution was first adopted, a charter board was given six months to prepare a charter. In 1964 the time frame was extended to 12 months; in 1992 it was again extended to 18 months. The two procedures for adoption of charter home rule are outlined in Exhibit 2.6. Seven of the eight charter home rule counties adopted home rule under Article XI-A, Section 1 rather than the alternative process now available under Article XI-A, Section 1A of the



Constitution.

### **Structure**

Six of the eight charter counties have an elected county executive and county council structure; consequently, there is a separation of executive and legislative powers similar to that found in State government. Talbot and Wicomico counties, the two charter counties on Maryland's Eastern Shore, use a council-manager form of government. Although significant responsibility for executive functions may be vested in the county administrator or manager, the individual in that position is ultimately responsible to the county council. Article XI-A, Section 3A of the Maryland Constitution provides alternatives by which council members may be elected. Council members may be elected by councilmanic districts, at-large, or a combination of these methods. Article 25A, Section 3 of the Annotated Code of Maryland provides that a charter may require council members to reside within specified districts but be elected by voters throughout the county. Under Article XVII of the Maryland Constitution, council members and elected executives serve four-year terms and are elected at the same time that the Governor and members of the General Assembly are elected. In 1996 the Constitution was amended to allow council vacancies to be filled by special election as authorized by the General Assembly. Within these limits, and limits contained in the federal constitution, the voters in a charter county have considerable discretion in shaping their county government through the charter.



**Exhibit 2.6**  
**Adoption of Charter Home Rule under the Maryland Constitution**

<b>Process</b>	<b>Article XI-A, Section 1</b>	<b>Article XI-A, Section 1A</b>
<b>Initiation of Process: Proposal of Charter Board</b>	Petition by 20% or 10,000 voters, whichever is less, requires governing body to nominate charter board. (Also, in Baltimore City, Mayor and City Council may initiate process.) Charter board consists of 5 members. (In Baltimore City, 11 members.)	1. At any time, County Commissioners may appoint charter board consisting of uneven number of members, ranging from 5 to 9. OR 2. Petition by 5% or 10,000 voters, whichever is less. Appointments must be made within 30 days of receipt of petition.
<b>Nomination of Charter Board</b>	Nominations by governing body to be received not less than 40 days before election, and by voter petition, not less than 20 days before election.	When the governing body appoints a charter board, additional nominations may be made by a petition signed by 3% or 2,000 voters, whichever is less, and delivered within 60 days after the board is appointed.
<b>Election on Charter Board and Its Membership</b>	Next general or congressional election.  If no more than 5 nominations (or 11 if in Baltimore City) are received, the nominees constitute the charter board. Sole question is whether to create a charter board.  If more than 5 nominations, the voters must determine whether to create a charter board <i>and</i> the membership of the board.	No sooner than 30 days and no later than 90 days after receipt of petition. Election unnecessary if no additional nominations received. (Voters do not have an opportunity to decide whether a charter board should be created.)
<b>Result of Election</b>	If majority favor creating charter board, top 5 vote getters constitute charter board. (11 in Baltimore City) If only 5 nominees, no vote on board members. If majority against creation of charter board, election of board members is void, and process ends.	Top vote getters equal to the number of board members initially appointed constitute charter board.
<b>Drafting of Charter</b>	Within 18 months of election, charter board must prepare and submit proposed charter to Board of County Commissioners (or Mayor of Baltimore City).	Within 18 months of election, charter board must prepare and submit proposed charter to Board of County Commissioners.
<b>Publication of Proposed Charter</b>	Within 30 days of receipt, proposed charter must be published in at least 2 newspapers of general circulation in the jurisdiction.	Within 30 days of receipt, proposed charter must be published at least twice in one or more newspapers of general circulation in the jurisdiction.
<b>Election on Proposed Charter</b>	Next general or congressional election.	Special or regular election held no sooner than 30 days or more than 90 days after publication.
<b>Result of Election</b>	If majority favor adoption of charter, charter effective on the 30th day from the date of election. If majority reject adoption of charter, process ends.	If majority favor adoption of charter, charter effective on the 30th day after date of election or later date specified in charter. If majority reject adoption of charter, process ends.

Source: Department of Legislative Services



## **Powers of Charter Counties**

Except as it relates to the adoption of charter home rule, the Maryland Constitution does not actually grant authority to charter counties. Instead, Article XI-A, Section 2 of the constitution requires the General Assembly to provide by public general law a grant of express powers for those counties that adopt charter home rule. The General Assembly has complied with this mandate with enactment of Article 25A, Sections 4 and 5 of the Annotated Code of Maryland (the “Express Powers Act”).

Article 25A, Section 4 of the Annotated Code of Maryland provides in part that a charter county “shall be entitled to exercise the following express powers ... granted as a substitute for or in extension of the powers codified in Article 25 of the Annotated Code of Maryland, title ‘County Commissioners’ ...”. Subject to the constitution and the public general law of the State, a county council may enact local laws for the county on any matter covered under the Express Powers Act. The county council may also amend or repeal a local law adopted by the General Assembly before the adoption of home rule as long as the scope of the law is within the Express Powers Act. Although a detailed treatment of the Express Powers Act is not provided here, it is worth mentioning some specific provisions as illustrative of a charter county’s authority. A charter county may establish civil penalties and criminal penalties up to a certain statutory cap. It may incur general obligation debt up to a certain statutory cap and subject to the possibility of a petition to referendum. It may establish special taxing districts for any of the purposes enumerated in Article 25A of the Annotated Code of Maryland. It exercises zoning authority under the Express Powers Act rather than Article 66B of the Annotated Code of Maryland.

An important enumerated power of charter counties is the general welfare clause under Article 25A, Section 5(S) of the Annotated Code of Maryland:

The foregoing or other enumeration of powers in this article shall not be held to limit the power of the county council, in addition thereto, to pass all ordinances, resolutions or bylaws, not inconsistent with the provisions of this article or the laws of the State, as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as such ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county...

This provision, referred to as the general police power, allows charter counties to enact local laws for the public good as long as the local laws are not inconsistent with the public general law of the State. In interpreting this provision, the Maryland Court of Appeals has stated



that, “[g]ratification would not be afforded the purposes of home rule or the reasons which prompted it if the language of [Article 25A, Section 5(S)] were not to be construed as a broad grant of power to legislate on matters not specifically enumerated in Art. 25A ...”. (*Mont. Citizens League v. Greenhalgh*, 253 Md. 151, 160-161 (1969))

Although charter counties have broad home rule authority, such authority is not unlimited. The Express Powers Act does not grant charter counties general taxing authority. Moreover, charter counties may not legislate in areas that would not be considered “local law.” For example, the Court of Appeals has rejected an effort by a charter county to establish what was viewed as a new legal cause of action, a right reserved to the General Assembly or Court of Appeals. Outside the Express Powers Act, charter counties are required to seek authority from the General Assembly.

### **Charter Amendments**

Earlier in this section, a county charter was compared to a constitution. However, unlike the Maryland Constitution, under which constitutional amendments may only be proposed by the General Assembly, amendments to county charters may be proposed by either the county council or the voters. Article XI-A, Section 5 of the Constitution addresses the charter amendment process.

Charter amendments may be proposed by resolution of the council or by a petition signed by at least 20 percent of the registered voters or by 10,000 registered voters, whichever is less. The petition is to be filed with the Mayor of Baltimore City or the president of the county council. The proposed amendment is then submitted for consideration by the voters at the next general or congressional election. Prior to the election, the proposed amendment must be published by the mayor or council president once a week for five successive weeks in at least one newspaper in the jurisdiction. If the voters approve the proposed amendment, the amendment becomes part of the charter on the 30th day after the election.

### **Baltimore City**

Baltimore City is unique among Maryland’s local governments. It is a municipal corporation; however, it is treated as a county for purposes of State law. When Article XI-A of the Constitution was adopted, Baltimore City was given the opportunity to adopt a charter under its provisions. This authority was first exercised in 1918.

Originally, Baltimore City was established as a municipal corporation within the confines of Baltimore County. The government performed exclusively municipal functions. In 1851 Baltimore City was separated from Baltimore County and has since functioned as an



independent unit. The structure of Baltimore City government was established in the Constitution of 1867, and the General Assembly was authorized to make changes to the structure. The procedure for issuance of general obligation debt in Baltimore was also established in the Constitution and can only be changed through constitutional amendment. The Baltimore City Charter enumerates the powers of the city and defines its administrative and organizational structure. The express powers granted to the city by the General Assembly are codified in Article II of the Baltimore City Charter rather than Article 25A of the Annotated Code of Maryland. The voters of Baltimore City may not alter this article of the charter. Revisions to the city's express powers must be made by the General Assembly.

The Baltimore City Charter sets forth the structure of the city government. The Mayor and City Council govern Baltimore City jointly. They share general powers to address health, safety, and welfare issues. Baltimore City has three officials elected citywide: the mayor, the comptroller, and the president of the city council. These officials along with the city solicitor and director of public works sit as the Board of Estimates. This board creates the annual city budget, awards contracts, supervises procurement, and establishes salaries and working conditions for city employees. The city council has 19 members. Other than the president, the members are elected by district. The city is divided into six districts and three council members are elected from each district. Unlike the election of county officials, however, the mayor and city council are elected on a different cycle. Before 1999, the mayor and city council members were elected in the year following the election of the Governor and members of the General Assembly. Since 1999, however, as a result of the city voters changing the city charter and the Attorney General's advice, the next scheduled Baltimore City primary will remain in September 2003, but the next scheduled Baltimore City general election will coincide with the presidential election in November 2004.

### Code Counties

Before 1965 only four of Maryland's counties had adopted charter home rule. This suggested a need for an alternative form of home rule government that was less procedurally and politically difficult to establish.

In 1965 the General Assembly proposed a constitutional amendment offering an alternative form of county government referred to as code home rule. "Requiring neither the drafting and approval of a local charter nor carrying with it any requirement or association with a major re-organization of county government, code home rule ... presented a very real alternative to charter home rule in Maryland." (62 Op. Att'y Gen. 275, 281 (1977), citing Spencer, *Contemporary Local Government in Maryland*, pp. 26-27 (1965)). In November

Code Counties	
Kent	(1970)
Allegany	(1974)
Worcester	(1976)
Caroline	(1984)
Queen Anne's	(1990)



1966 the voters ratified the proposed amendment, adding to the Maryland Constitution Article XI-F, “Home Rule for Code Counties” (see Appendix 1). Today five counties operate under code home rule. These counties and the date code home rule was adopted are set forth in the sidebar.

### **Constitutional/Statutory Authority**

Article XI-F of the Maryland Constitution, the code home rule amendment, was modeled in many ways after the municipal home rule amendment to the constitution. Article XI-F, Section 1 of the Constitution defines “code county” and “public local law.” Article XI-F, Section 2 describes how code home rule is adopted, a process elaborated on by the General Assembly in Article 25B of the Annotated Code of Maryland. Article XI-F, Section 3 grants a code county authority to enact, amend, or repeal a public local law of the county, except as otherwise provided in Article XI-F. Article XI-F, Section 4 restricts the General Assembly from passing legislation for individual code counties. Article XI-F, Section 5 requires the General Assembly to classify code counties into not more than four classes based on population or other criteria determined by the General Assembly to be appropriate. In 1997, the General Assembly classified code counties by region into four classes as identified in Article 25B, Section 2 of the Annotated Code of Maryland. Article XI-F, Section 6 describes how a code county enacts public local laws and authorizes the General Assembly to amplify the provisions by public general law. The General Assembly has passed legislation concerning code county legislative procedures which are found in Article 25B of the Annotated Code of Maryland. Article XI-F, Section 7 reserves to the voters the right to petition public local laws enacted by the county commissioners of a code county to referendum. Article XI-F, Section 8 allows the General Assembly to pass local laws applicable to individual code counties for purposes of restricting tax rates and county debt. Article XI-F, Section 9 restricts the ability of a code county from imposing “any type of tax, license fee, franchise tax, or fee” unless authorized prior to adoption of home rule or, if authorized by the General Assembly for all code counties within a given class, following adoption of home rule. Article XI-F, Section 10 provides that laws in effect at the time home rule is adopted continue in effect until altered under the provisions of the constitution.

Unlike a charter county, a code county’s legislative authority is derived from two sources: (1) the General Assembly, primarily under Article 25B of the Annotated Code of Maryland; and (2) Article XI-F of the Constitution itself. In addition to other powers that a code county may otherwise possess under public general or public local law, it is granted various powers under Article 25 of the Annotated Code of Maryland. More significantly, a code county is granted most of the powers that charter counties have under the Express Powers Act. Article 25B, Section 13 of the Annotated Code of Maryland applies provisions of the Express Powers Act to code counties other than Article 25A, Sections 5(A), (P), and (S). Article 25A, Section 5(A) deals with passage of legislation and Section 5(P) deals with



general obligation debt. Both of these powers are granted to code counties under alternative provisions of law. Article 25A, Section 5(S) deals with amendments to a county charter which a code county does not have. Section 5(S) also grants charter counties police power (see Appendix 2).

Article XI-F, Section 3 of the Constitution authorizes code counties to enact public local laws. “Public local law” is defined in part as a law “applicable to the incorporation, organization, or government of a code county ....” Whether such authority is sufficient to make the police power under Article 25A, section 5(S) of the Annotated Code unnecessary due to the inherent powers of code counties under the Constitution is open to interpretation.

### **Adoption of Code Home Rule**

In comparison to procedures for adopting charter home rule, adoption of code home rule is relatively simple. This procedure is governed by Article XI-F, Section 2 of the Constitution as supplemented by Article 25B, Sections 3 through 7 of the Annotated Code. This process is outlined in Exhibit 2.7. Article 25B, Section 7A provides that a code home rule county may elect to return to its form of government prior to adoption of code home rule by following the same procedures.

### **Structure**

When a commission county adopts code home rule, it retains a board of county commissioners as its governing body. The board exercises both legislative and executive authority. Although a code county may delegate significant authority to a county administrator or other personnel, ultimate authority remains with the county commissioners. Because the number of commissioners and method of election are controlled by public local law, the county commissioners may alter the composition of the board, subject to applicable restrictions of the Maryland Constitution. The current structure in place in each code county is summarized in Exhibit 2.8. Under Article XVII of the Constitution, county commissioners in code counties serve four-year terms and are elected at the same time as the Governor and members of the General Assembly.

### **Authority of Code Counties**

The breadth of a code home rule county’s authority has been the subject of debate due in large part to the definition of “public local law” under Article XI-F of the Maryland Constitution. Although the drafters of the constitutional amendment clearly used the municipal home rule amendment as a model, Article XI-E of the Constitution refers to the “incorporation, organization, government, or affairs” of municipal corporations. The definition of “public local law” under Article XI-F does not include the term “affairs.” Whether this term was viewed as surplusage or whether it was excluded to limit the breadth



of code counties' authority is open to interpretation. In an in-depth analysis of Article XI-F of the Constitution, the Office of the Attorney General has determined that a code county's authority should be broadly construed. However, this view may be inconsistent with those who view code home rule as an intermediate step short of charter home rule.

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**Exhibit 2.7**  
**Adoption of Code Home Rule under Article XI-F of the**  
**Maryland Constitution and Article 25 of the Code**

<b>Initiation of Process; Authority</b>	Article XI-F, Section 2 of the Maryland Constitution, along with Article 25B, Section 3 of the Annotated Code of Maryland, gives the board of county commissioners authority to propose code home rule by resolution of a two-thirds majority of the board.
<b>Notice of Proposed Resolution</b>	Under Article 25B, Section 4 of the Annotated Code of Maryland, the board must publish notice containing the dates, times and places of public hearings concerning adoption of code home rule. The notice must be published at least three times, and not more than 30 days before the first hearing, in at least one newspaper of general circulation in the county.
<b>Public Hearings on Proposed Resolution</b>	Under Article 25B, Section 5 of the Annotated Code of Maryland, the board shall hold at least two public hearings on the question of code home rule.
<b>Adoption of Resolution</b>	Under Article 25B, Section 6 of the Annotated Code of Maryland, within 60 days from the last public hearing, the board must adopt or reject the proposed resolution. Adoption requires a two-thirds majority of the board.
<b>Election</b>	Under Article 25B, Section 7 of the Annotated Code of Maryland, following adoption by the board, the resolution must be submitted to voters at the next general election, provided charter home rule is not on the ballot. Ballot allows voters to choose, "For Adoption of Code Home Rule Status" or "Against Adoption of Code Home Rule Status."
<b>Consideration of Charter Home Rule: Effect on Process</b>	Under Article XI-F, Section 2 of the Maryland Constitution, if a proposed charter under Article XI-A of the Maryland Constitution is to be on the ballot, only the proposed charter will be submitted to voters. If the charter is adopted, the code resolution has no effect. If the proposed charter is rejected, the proposed resolution shall be submitted to voters at the next general election.
<b>Result of Election</b>	Under Article 25B, Section 7 of the Annotated Code of Maryland, within ten days after receiving certification of election results, the board shall proclaim the results. If a majority favors adoption of proposed resolution, the county becomes a code home rule county on the 30th day after the proclamation. If a majority rejects adoption of proposed resolution, the process ends.

Source: Department of Legislative Services

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Exhibit 2.8

Baltimore City and County Governments – Form, Structure, and Election Systems

County	Commission	Charter Home Rule	Code Home Rule	Commissioners (Board)	Council Members	Council or Board President (Elected At-large)	Council or Board President (Highest Vote Getter or Selection by Members)	County Executive or Mayor (Elected At-large)	Number Elected At-large	Number Elected At-large with District Residency Requirement	Number Elected by District
Allegany			X	3			X		3		
Anne Arundel		X			7		X	X			7
Baltimore City		X			19	X		X	1		18
Baltimore		X			7		X	X			7
Calvert	X			5			X		2	3	
Caroline			X	3			X		3		
Carroll	X			3			X		3		
Cecil	X			5			X			5	
Charles	X			5		X			1	4	
Dorchester	X			5			X				5
Frederick	X			5			X		5		
Garrett	X			3			X			3	
Harford		X			7	X		X	1	6	
Howard		X			5		X	X			5
Kent			X	3			X		3		
Montgomery		X			9		X	X	4		5
Prince George’s		X			9		X	X			9
Queen Anne’s			X	5			X		1		4
St. Mary’s	X			5		X			1	4	
Somerset	X			5			X				5
Talbot		X			5		X		5		
Washington	X			5			X		5		
Wicomico		X			7		X		2		5
Worcester			X	7			X				7

Source: Department of Legislative Services







## **Chapter 3. Municipal Corporations**

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There are 156 municipal corporations, commonly referred to as municipalities, with home rule powers under Article XI-E of the Maryland Constitution (see Appendix 1). While the City of Baltimore is a municipal corporation, it is usually grouped with the charter home rule counties for legal and legislative purposes rather than with municipal corporations because it receives its home rule authority under Article XI-A of the Constitution.

Despite a common foundation under Article XI-E of the Maryland Constitution, there is a great variety in the size, structure, budget, and services of municipal corporations. With limited exceptions, the authority granted to municipal corporations under the Constitution and public general laws is uniform throughout the State. However, the extent that such authority is exercised within an individual municipal corporation is a decision of the voters by adoption or amendment of their charter and, within the confines of the charter, a decision of their elected governing body by adoption of local laws. The role of the General Assembly in relation to municipal corporations is addressed in Chapter 5.

### **Historical Development**

From the 1600s to the mid-1950s, the General Assembly closely supervised the creation and operation of municipal corporations in the State through the enactment of public local laws. Of the 156 municipal corporations in existence, all but five were created by the General Assembly before 1954, when municipal corporations were granted home rule authority. The oldest municipal corporation is Annapolis, in Anne Arundel County, created by Chapter 7 of 1708. Only five other existing municipal corporations were created in the eighteenth century - Havre de Grace (Harford County - 1785), Charlestown (Cecil County - 1786), Easton (Talbot County - 1790), Cambridge (Dorchester County - 1793) and Centreville (Queen Anne's County - 1794). The State created 90 of the existing municipal corporations between 1800 and 1899, and 55 of the existing municipal corporations between 1900 and 1954. The last three municipal corporations that were created by the General Assembly prior to the ratification of municipal home rule authority are Brookview (Dorchester County), New Carrollton (Prince George's County), and Queen Anne (Queen Anne's and Talbot Counties). These municipal corporations were established in 1953.

After 1954 the General Assembly's involvement in local municipal affairs diminished significantly with the ratification of Article XI-E of the Maryland Constitution, which provides for municipal home rule. Since ratification of the



Municipal Home Rule Amendment, there have been only five new municipal incorporations. All of these municipal corporations are located in Montgomery County and all were originally created by the State as special taxing districts: Village of Chevy Chase, Section 3 (1982); Village of Chevy Chase, Section 5 (1982); Village of Martin's Additions (1985); Town of Chevy Chase View (1993); and Village of North Chevy Chase (1996). While the particular reasons and histories vary, the common theme in pursuing and achieving municipal status is the desire to exercise home rule powers under Article XI-E of the Constitution. Rather than by action of the General Assembly, these new municipal corporations were created by the successful referendum of the voters in each of the former special taxing districts in accordance with the provisions of Article 23A, Sections 20 through 30 of the Annotated Code of Maryland.

Despite the overall growth in the total number of municipal corporations throughout Maryland's history, it is important to note that over the years several municipal corporations have formally dissolved. For example, the municipal charter of Piscataway, in Prince George's County, was proclaimed repealed by the Secretary of State in 1964 under the provisions of Article 23A, Section 43 of the Annotated Code. Other former municipal corporations include St. Mary's City in St. Mary's County and Arundel on the Bay in Anne Arundel County.

Exhibit 3.1 lists the authority by which today's 156 municipal corporations were created within each county.



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**Exhibit 3.1**  
**Incorporated Cities and Towns**

<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>	<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>
<b>Allegany</b>			<b>Carroll</b>		
Barton	1900	Ch. 729	Hampstead	1888	Ch. 295
Cumberland	1815	Ch. 136	Manchester	1833	Ch. 193
Frostburg	1839	Ch. 179	Mount Airy	1894	Ch. 91
Lonaconing	1890	Ch. 132	(also in Frederick)		
Luke	1922	Ch. 73	New Windsor	1843	Ch. 47
Midland	1900	Ch. 681	Sykesville	1904	Ch. 256
Westernport	1858	Ch. 54	Taneytown	1836	Ch. 309
			Union Bridge	1872	Ch. 174
			Westminster	1818	Ch. 128
<b>Anne Arundel</b>			<b>Cecil</b>		
Annapolis	1708	Ch. 7	Cecilton	1864	Ch. 353
Highland Beach	1922	Ch. 213	Charlestown	1786	Ch. 20
<b>Baltimore County</b>			Chesapeake City	1849	Ch. 271
None			Elkton	1821	Ch. 143
<b>Calvert</b>			North East	1849	Ch. 339
Chesapeake Beach	1886	Ch. 203	Perryville	1882	Ch. 212
North Beach	1910	Ch. 395	Port Deposit	1824	Ch. 33
			Rising Sun	1860	Ch. 383
<b>Caroline</b>			<b>Charles</b>		
Denton	1802	Ch. 25	Indian Head	1920	Ch. 590
Federalburg	1823	Ch. 174	La Plata	1888	Ch. 325
Goldsboro	1906	Ch. 87	Port Tobacco	1888	Ch. 297
Greensboro	1826	Ch. 97			
Henderson	1949	Ch. 498			
Hillsboro	1853	Ch. 161			
Marydel	1929	Ch. 38			
Preston	1892	Ch. 689			
Ridgely	1896	Ch. 178			
Templeville	1865	Ch. 86			
(also in Queen Anne's)					



<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>	<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>
<b>Dorchester</b>			<b>Howard</b>		
Brookview	1953	Ch. 704	None		
Cambridge	1793	Ch. 66			
Church Creek	1867	Ch. 53	<b>Kent</b>		
East New Market	1832	Ch. 167	Betterton	1906	Ch. 227
Eldorado	1947	Ch. 313	Chestertown	1805	Ch. 271
Galestown	1951	Ch. 92	Galena	1858	Ch. 373
Hurlock	1892	Ch. 249	Millington	1890	Ch. 386
Secretary	1900	Ch. 555	(also in Queen Anne's)		
Vienna	1833	Ch. 216	Rock Hall	1908	Ch. 171
<b>Frederick</b>			<b>Montgomery</b>		
Brunswick	1890	Ch. 577	Barnesville	1888	Ch. 254
Burkittsville	1894	Ch. 652	Brookeville	1808	Ch. 90
Emmitsburg	1824	Ch. 29	Chevy Chase	1918	Ch. 177
Frederick	1816	Ch. 74	Chevy Chase, Sec. 3	1982	Referendum
Middletown	1833	Ch. 143	Chevy Chase, Sec. 5	1982	Referendum
Mount Airy	1894	Ch. 91	Chevy Chase View	1993	Referendum
(also in Carroll)			Chevy Chase Village	1910	Ch. 382
Myersville	1904	Ch. 94	Gaithersburg	1878	Ch. 397
New Market	1878	Ch. 90	Garrett Park	1898	Ch. 453
Rosemont	1953	Ch. 262	Glen Echo	1904	Ch. 436
Thurmont	1894	Ch. 16	Kensington	1894	Ch. 621
Walkersville	1892	Ch. 351	Laytonsville	1892	Ch. 497
Woodsboro	1836	Ch. 299	Martin's Additions	1985	Referendum
<b>Garrett</b>			North Chevy Chase	1996	Referendum
Accident	1916	Ch. 514	Poolesville	1867	Ch. 174
Deer Park	1884	Ch. 519	Rockville	1860	Ch. 373
Friendsville	1902	Ch. 477	Somerset	1906	Ch. 795
Grantsville	1864	Ch. 99	Takoma Park	1890	Ch. 480
Kitzmiller	1906	Ch. 285	Washington Grove	1937	Ch. 372
Loch Lynn Heights	1896	Ch. 450			
Mountain Lake Park	1931	Ch. 507			
Oakland	1862	Ch. 250			
<b>Harford</b>					
Aberdeen	1892	Ch. 136			
Bel Air	1874	Ch. 273			
Havre de Grace	1785	Ch. 55			



<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>	<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>
<b>Prince George's</b>			<b>St. Mary's</b>		
Berwyn Heights	1896	Ch. 267	Leonardtown	1858	Ch. 73
Bladensburg	1854	Ch. 137			
Bowie	1882	Ch. 488	<b>Somerset</b>		
Brentwood	1912	Ch. 401	Crisfield	1872	Ch. 151
Capitol Heights	1910	Ch. 513	Princess Anne	1894	Ch. 543
Cheverly	1931	Ch. 200			
College Park	1945	Ch. 1051	<b>Talbot</b>		
Colmar Manor	1927	Ch. 178	Easton	1790	Ch. 14
Cottage City	1924	Ch. 390	Oxford	1852	Ch. 367
District Heights	1936	Ch. 61	Queen Anne	1953	Ch. 17
Eagle Harbor	1936	Ch. 397	(also in Queen Anne's)		
Edmonston	1924	Ch. 154	St. Michaels	1804	Ch. 82
Fairmount Heights	1935	Ch. 199	Trappe	1827	Ch. 103
Forest Heights	1949	Ch. 142			
Glenarden	1939	Ch. 650	<b>Washington</b>		
Greenbelt	1937	Ch. 532	Boonsboro	1831	Ch. 139
Hyattsville	1886	Ch. 424	Clear Spring	1836	Ch. 141
Landover Hills	1945	Ch. 465	Funkstown	1840	Ch. 78
Laurel	1870	Ch. 260	Hagerstown	1813	Ch. 121
Morningside	1949	Ch. 589	Hancock	1853	Ch. 319
Mount Rainier	1910	Ch. 514	Keedysville	1872	Ch. 251
New Carrollton	1953	Ch. 441	Sharpsburg	1832	Ch. 28
North Brentwood	1924	Ch. 508	Smithsburg	1841	Ch. 284
Riverdale Park	1920	Ch. 731	Williamsport	1823	Ch. 125
Seat Pleasant	1931	Ch. 197			
University Park	1936	Ch. 132	<b>Wicomico</b>		
Upper Marlboro	1870	Ch. 363	Delmar	1888	Ch. 167
			Fruitland	1947	Ch. 662
<b>Queen Anne's</b>			Hebron	1931	Ch. 90
Barclay	1931	Ch. 483	Mardela Springs	1906	Ch. 325
Centreville	1794	Ch. 23	Pittsville	1906	Ch. 499
Church Hill	1876	Ch. 201	Salisbury	1854	Ch. 287
Millington (also in Kent)	1890	Ch. 386	Sharptown	1874	Ch. 465
Queen Anne	1953	Ch. 17	Willards	1906	Ch. 195
(also in Talbot)					
Queenstown	1892	Ch. 542	<b>Worcester</b>		
Sudlersville	1870	Ch. 313	Berlin	1868	Ch. 424
Templeville	1865	Ch. 86	Ocean City	1880	Ch. 209
(also in Caroline)			Pocomoke City	1878	Ch. 253
			Snow Hill	1812	Ch. 72

Source: Maryland State Archives; Department of Legislative Services



## Demographics

Based on the 2000 census, 774,442 of Maryland's 5.3 million residents reside within a municipal corporation (excluding Baltimore City). This represents approximately 14.6 percent of the State's population. The size of municipal corporations grouped by population range is illustrated in Exhibit 3.2.

The largest municipal corporation in Maryland is the City of Frederick (52,767) in Frederick County; second in population is the City of Gaithersburg (52,613) in Montgomery County. The smallest municipal corporation is the Town of Port Tobacco (15) in Charles County. The average municipal population is 4,677. Of 156 municipal corporations, 65 have fewer than 1,000 residents. The estimated 2000 population for each municipal corporation is listed in Exhibit 3.3.

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**Exhibit 3.2**  
**Municipal Corporations by Size**

Population Range	Number of Municipal Corporations
25,001 - 55,000	7
10,001 - 25,000	15
5,001 - 10,000	14
2,501 - 5,000	18
Less than 2,500	102

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The number of municipal corporations in each county and the percentage of residents in each county who reside within a municipal corporation vary considerably. Prince George's County, with 27 municipal corporations, has the greatest number among the 23 counties. Although Prince George's County has the highest number of residents who reside within a municipal corporation (213,795), municipal residents only equal 26.7 percent of the county population. Allegany County has the highest percentage of residents who reside within a municipal corporation (45.0 percent). In contrast, in St. Mary's County 2.2 percent of residents reside within a municipal corporation. Baltimore and Howard counties have no municipal corporations entirely within their boundaries although a small portion of the Town of Hampstead does extend into Baltimore County.



The number of residents in each county who reside within a municipal corporation is provided in Exhibit 3.4.

Although few municipal corporations have been created since 1954, the overall percentage of the State's population living in municipal corporations has remained relatively stable. This stability is due in large part to annexations of territory by the municipal corporations that have kept pace, more or less, with the growth and relocation of the State's population.



### Exhibit 3.3

#### Estimates of the Population of Municipal Corporations on July 1, 2000

Municipality	Est. Population
Aberdeen	13,842
Accident	353
Annapolis	35,838
Barclay	143
Barnesville	161
Barton	478
Bel Air	10,080
Berlin	3,491
Berwyn Heights	2,942
Betterton	376
Bladensburg	7,661
Boonsboro	2,803
Bowie	50,269
Brentwood	2,844
Brookeville	120
Brookview	65
Brunswick	4,894

Municipality	Est. Population
Burkittsville	171
Cambridge	10,911
Capitol Heights	4,138
Cecilton	474
Centreville	1,970
Charlestown	1,019
Chesapeake Beach	3,180
Chesapeake City	787
Chestertown	4,746
Cheverly	6,433
Chevy Chase	2,726
Chevy Chase Section Three	773
Chevy Chase Section Five	641
Chevy Chase View	863
Chevy Chase Village	2,043
Church Creek	85
Church Hill	530

Municipality	Est. Population
Clear Spring	455
College Park	24,657
Colmar Manor	1,257
Cottage City	1,136
Crisfield	2,723
Cumberland	21,518
Deer Park	405
Delmar	1,859
Denton	2,960
District Heights	5,958
Eagle Harbor	55
East New Market	167
Easton	11,708
Edmonston	959
Eldorado	60
Elkton	11,893
Emmitsburg	2,290



Municipality	Est. Population
Fairmount Heights	1,508
Federalsburg	2,620
Forest Heights	2,585
Frederick	52,767
Friendsville	539
Frostburg	7,873
Fruitland	3,774
Funkstown	983
Gaithersburg	52,613
Galena	428
Galestown	101
Garrett Park	917
Glenarden	6,318
Glen Echo	242
Goldsboro	216
Granstville	619
Greenbelt	21,456
Greensboro	1,632
Hagerstown	36,687
Hampstead	5,060

Municipality	Est. Population
Hancock	1,725
Havre de Grace	11,331
Hebron	807
Henderson	118
Highland Beach	109
Hillsboro	163
Hurlock	1,874
Hyattsville	14,733
Indian Head	3,422
Keedysville	482
Kensington	1,873
Kitzmiller	302
La Plata	6,551
Landover Hills	1,534
Laurel	19,960
Laytonsville	277
Leonardtown	1,896
Loch Lynn Heights	469
Lonaconing	1,205
Luke	80

Municipality	Est. Population
Manchester	3,329
Mardela Springs	364
Martin's Additions	875
Marydel	147
Middletown	2,668
Midland	473
Millington	416
Morningside	1,295
Mount Airy	6,425
Mount Rainier	8,498
Mountain Lake Park	2,248
Myersville	1,382
New Carrollton	12,589
New Market	427
New Windsor	1,303
North Beach	1,880
North Brentwood	469
North East	2,733
North Chevy Chase	465
Oakland	1,930



<b>Municipality</b>	<b>Est. Population</b>
Ocean City	7,173
Oxford	771
Perryville	3,627
Pittsville	1,182
Pocomoke City	4,098
Poolesville	5,151
Port Deposit	676
Port Tobacco	15
Preston	566
Princess Anne	2,313
Queen Anne	176
Queenstown	617
Ridgely	1,352
Rising Sun	1,702
Riverdale Park	6,690
Rock Hall	1,396
Rockville	47,388
Rosemont	273
St. Michaels	1,193
Salisbury	23,743

<b>Municipality</b>	<b>Est. Population</b>
Seat Pleasant	4,885
Secretary	503
Sharpsburg	691
Sharptown	649
Smithsburg	2,146
Snow Hill	2,409
Somerset	1,124
Sudlersville	391
Sykesville	4,197
Takoma Park	17,299
Taneytown	5,128
Templeville	80
Thurmont	5,588
Trappe	1,146
Union Bridge	989
University Park	2,318
Upper Marlboro	648
Vienna	280
Walkersville	5,192
Washington Grove	515

<b>Municipality</b>	<b>Est. Population</b>
Westernport	2,104
Westminster	16,731
Willards	938
Williamsport	1,868
Woodsboro	846

Source: Population Estimates Program,  
Population Division, U.S. Census Bureau,  
June 2001



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**Exhibit 3.4**  
**Estimated Population of Municipal Residents within Each County**  
**Census 2000**

<u>County</u>	<u>Population in Municipalities</u>	<u>Percent of County's Population</u>
Allegany	33,731	45.0%
Anne Arundel	35,947	7.3%
Baltimore	0	0%
Calvert	5,060	6.8%
Caroline	9,799	32.9%
Carroll	39,717	26.3%
Cecil	22,911	26.7%
Charles	9,988	8.3%
Dorchester	14,046	45.8%
Frederick	79,943	40.9%
Garrett	6,865	23.0%
Harford	35,253	16.1%
Howard	0	0%
Kent	7,329	38.2%
Montgomery	136,066	15.6%
Prince George's	213,795	26.7%
Queen Anne's	3,831	9.4%
St. Mary's	1,896	2.2%
Somerset	5,036	20.3%
Talbot	14,902	44.1%
Washington	47,840	36.3%
Wicomico	33,316	39.4%
Worcester	17,171	36.9%
<b>Statewide</b>	<b>774,442</b>	<b>14.6%</b>

Prepared by: Department of Legislative Services, June 2002

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## **Constitutional Home Rule**

Prior to 1954 the General Assembly closely supervised the creation and operation of the municipal corporations by enacting individually drafted charters and any amendments to the charters. However, the General Assembly shifted the balance of municipal power to the municipal corporations themselves with the adoption of Chapter 53 of 1954, proposing a constitutional amendment. Upon ratification by the voters on November 2, 1954, Article XI-E, known as the "Municipal Home Rule Amendment," (see Appendix 1) was added to the Maryland Constitution. The general purpose of Article XI-E is to permit the municipal corporations to govern themselves in local matters. The courts have interpreted this amendment as a strong and explicit intention that the General Assembly only deal with the charters of the municipal corporations on a general basis and not pass local legislation to amend the charters of individual municipal corporations.

Under Article XI-E, Section 1 of the Maryland Constitution, except as otherwise provided, the General Assembly may only legislate on matters relating to the incorporation, organization, government, or affairs of municipal corporations by general laws which apply "alike to all municipal corporations in one or more of the classes provided for in Section 2 of this Article." Article XI-E, Section 2 requires the General Assembly to divide municipal corporations into not more than four classes based on population. However, Article 23A, Section 10 of the Annotated Code of Maryland provides that there is only one class, which contains all municipal corporations. Article XI-E, Section 3 grants each municipal corporation authority to adopt a new charter or to amend or repeal its municipal charter or local laws relating to the incorporation, organization, government, or affairs of the municipal corporation. Article XI-E, Section 4 addresses the manner in which a municipal charter may be amended and requires the General Assembly to amplify its provisions by general law. Statutory provisions governing municipal charter amendments are codified in Article 23A, Sections 11 through 18 of the Annotated Code of Maryland. Article XI-E, Section 5 grants the General Assembly authority to set maximum property tax rates and to limit the amount of debt that a municipal corporation may incur. However, a tax or debt limit may not take effect until approved by the voters of the municipal corporation at a regular or special election. Article XI-E, Section 5 also prohibits a municipal corporation from levying "any type of tax, license fee, franchise tax or fee" that was not in effect on January 1, 1954, unless authorized by the General Assembly by general law. Article XI-E, Section 6 addresses the relationship between municipal charters and other law.



## **Incorporation Process**

Article 23A, Sections 20 through 30 of the Annotated Code of Maryland prescribe the manner in which a new municipal corporation is incorporated under Article XI-E of the Maryland Constitution. Exhibit 3.5 outlines the municipal incorporation process.

In order to incorporate, a community must consist of a minimum of 300 residents in the area proposed for incorporation. A petition to incorporate must be submitted to the county in which the area proposed for incorporation is located. A standardized petition form developed by the Office of the Attorney General is available for communities seeking incorporation through each county's board of election supervisors. If the community's petition satisfies statutory requirements, the county must appoint a liaison to work with the community's organizing committee. What follows is an exchange of information, development of a proposed charter, and exchange of comments between the county and the organizing committee. Next, the county may schedule a referendum on the matter of incorporation or reject a proposed incorporation. However, if a county rejects a referendum request, the county must provide in writing the reasons for the rejection and establish reasonable procedures for reconsideration of its rejection, including an opportunity for a public hearing. The county may then schedule a referendum on incorporation or affirm its earlier rejection.

If the incorporation effort advances to referendum and the voters of the community approve incorporation, the county must proclaim the results within ten days after receiving certification from the board of supervisors of elections. Subject to certain required statutory procedures, the incorporation takes effect 30 days following the proclamation.

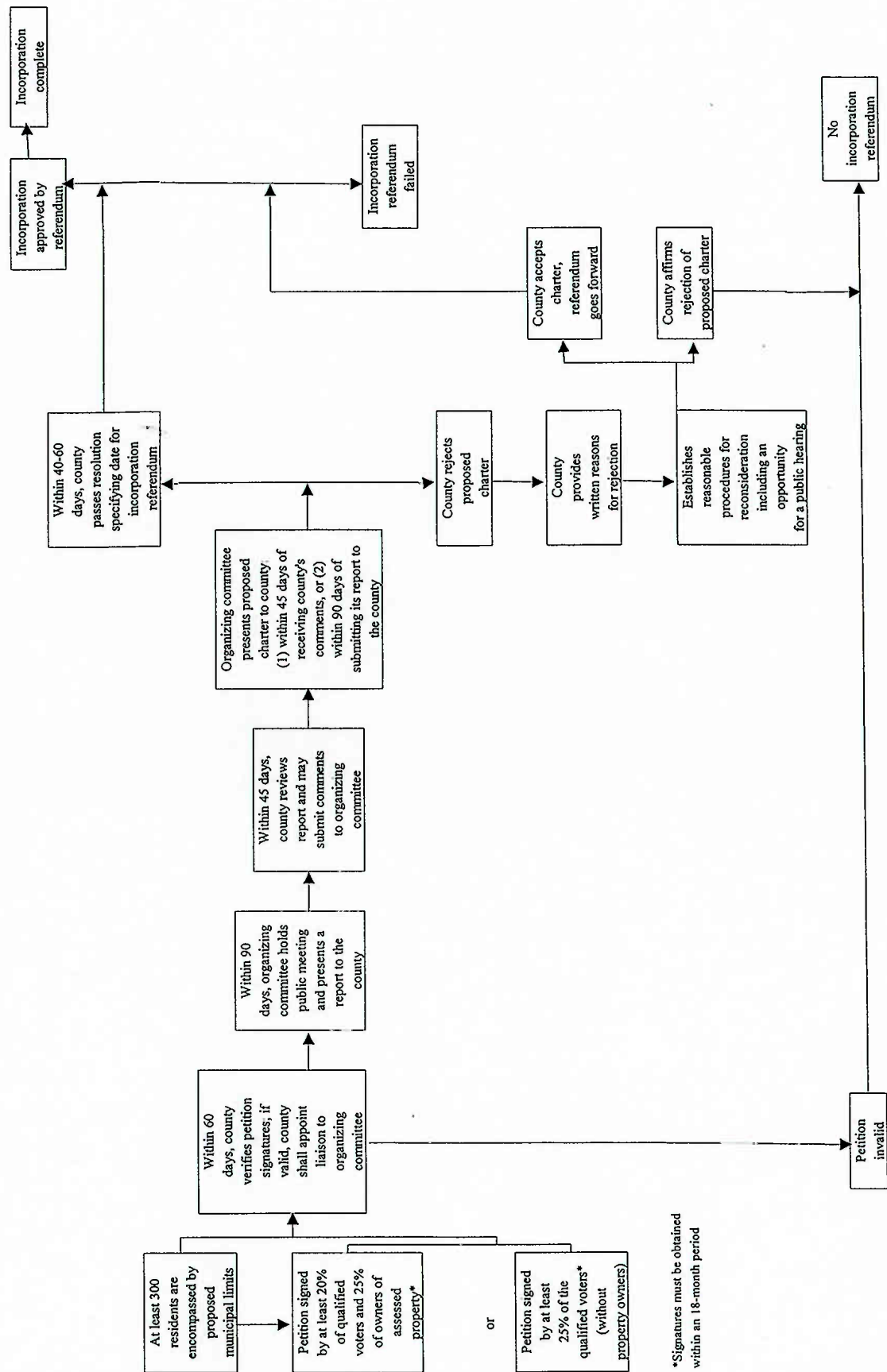
## **Governmental Structure and Election of Local Officials**

Neither the Maryland Constitution nor the Annotated Code of Maryland prescribes the forms of government for municipal corporations. Article 23A, Section 9(a) of the Annotated Code of Maryland merely states that, "the term municipal corporation shall include all cities, towns and villages, now or hereafter created under any general or special law of this State for general governmental purposes, which are subject to the provisions of Article XI-E of the Maryland Constitution, which possess legislative, administrative and police powers for the general exercise of municipal functions, and which carry on such functions through a set of elected and other officials."



Exhibit 3.5

## Municipal Incorporation Process





Given these broad guidelines, the forms of government that the municipal corporations have developed can be grouped into three basic categories:

- Commission;
- Mayor - Council; and
- Council - Manager.

According to the Maryland Municipal League, approximately 69 percent of municipal corporations utilize the mayor-council form of government. In this form of government, the mayor and council share the legislative power, and the mayor exercises executive power. Some mayors are “stronger” than others, meaning that they have veto power over legislative actions of the council; others share power as a member of the council. Of the other forms, approximately 21 percent have commissions and approximately 10 percent use the council-manager structure. In the commission form of government, the commissioners share the legislative power, and the executive powers are generally divided among the different commissioners. In the council-manager form of government, the council appoints a municipal manager who is the chief executive officer of the municipality. Within each category, there are variations in the qualifications, number, terms, and duties of municipal officials. Titles of municipal officials also vary; for example, in some municipal corporations, such as the Town of Middletown, the title “burgess” is used.

Because municipal corporations are not subject to Article XVII of the Maryland Constitution (Quadrennial Elections), they have considerable discretion as to the manner in which local officials are elected. Local election procedures are outlined in the charters of the municipal corporations. Municipal charters establish the terms of office and dates of elections. Often, the terms of office for municipal officials are staggered.

State laws governing elections generally do not apply to municipal elections. However, there are two State laws dealing with municipal elections that are noteworthy. Title 3, Subtitle 4 of the Election Law Article provides generally for the universal registration of voters in municipal elections, so that the list of individuals eligible to vote in a municipal election includes those residents of the municipal corporation who are registered to vote with the local elections board for the county in which an individual’s residence is located. In addition, Article 23A, Section 47 of the Annotated Code requires municipal corporations to allow voting in municipal elections by absentee ballot. In practice, municipal corporations may, and frequently do, rely on county election boards to administer municipal elections. Overall, the flexibility that municipal corporations



possess in election matters contributes to the autonomy of Maryland's municipal corporations.

A significant development in the way municipal corporations operate is the marked growth in the number of managers or administrators appointed by municipal governing bodies. According to the Maryland Municipal League, among Maryland's municipal chief appointed officials, there are 46 municipal managers, 34 administrators, and 13 circuit-rider administrators. This trend may be attributable to the increasing complexity of running municipal governments which creates a need for trained, experienced individuals to implement the policies developed by elected officials. Municipal managers may provide the corporate memory and attention to details that policy-oriented and often transient elected officials frequently cannot offer.

## **Powers of Municipalities**

Article XI-E of the Maryland Constitution grants a municipal corporation authority to amend or repeal its charter or local laws relating to the incorporation, organization, government, or affairs of the municipal corporation and authority to adopt a new charter. Procedures governing charter amendments are found in Article 23A, Sections 11 through 18 of the Annotated Code of Maryland.

The General Assembly has codified the powers of a municipal corporation in Article 23A, Section 2 of the Annotated Code of Maryland (see Appendix 3). This section includes a detailed list of municipal powers. Article 23A, Section 2 also provides a broad grant of authority:

...to pass such ordinances not contrary to the Constitution of Maryland, public general law, or except as provided in Section 2B of this Article [Application of county legislation to municipalities], public local law as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality...

In addition, three specific powers deserve particular mention: (1) amendments to municipal charters; (2) annexation of property; and (3) urban renewal powers for slum clearance. There are also two areas where municipal corporations have concurrent



authority with the General Assembly: limitations on property taxes and limitations on debt.

## **Charter Amendments**

As noted above, Article XI-E of the Maryland Constitution grants authority for the amendment of municipal charters and the General Assembly has established specific procedures. A charter amendment may be initiated either by resolution of the legislative body of the municipal corporation or by a petition signed by at least 20 percent of the qualified voters of the municipality. A proposed charter amendment must contain only a single subject. The law prescribes detailed procedural requirements pertaining to proposed charter amendments, including notice and publication requirements. An amendment proposed by the legislative body may be petitioned to referendum by 20 percent of the qualified voters. Otherwise, it may be adopted as proposed by majority vote of the legislative body. A charter amendment proposed by petition may be either adopted by resolution of the legislative body or submitted to referendum.

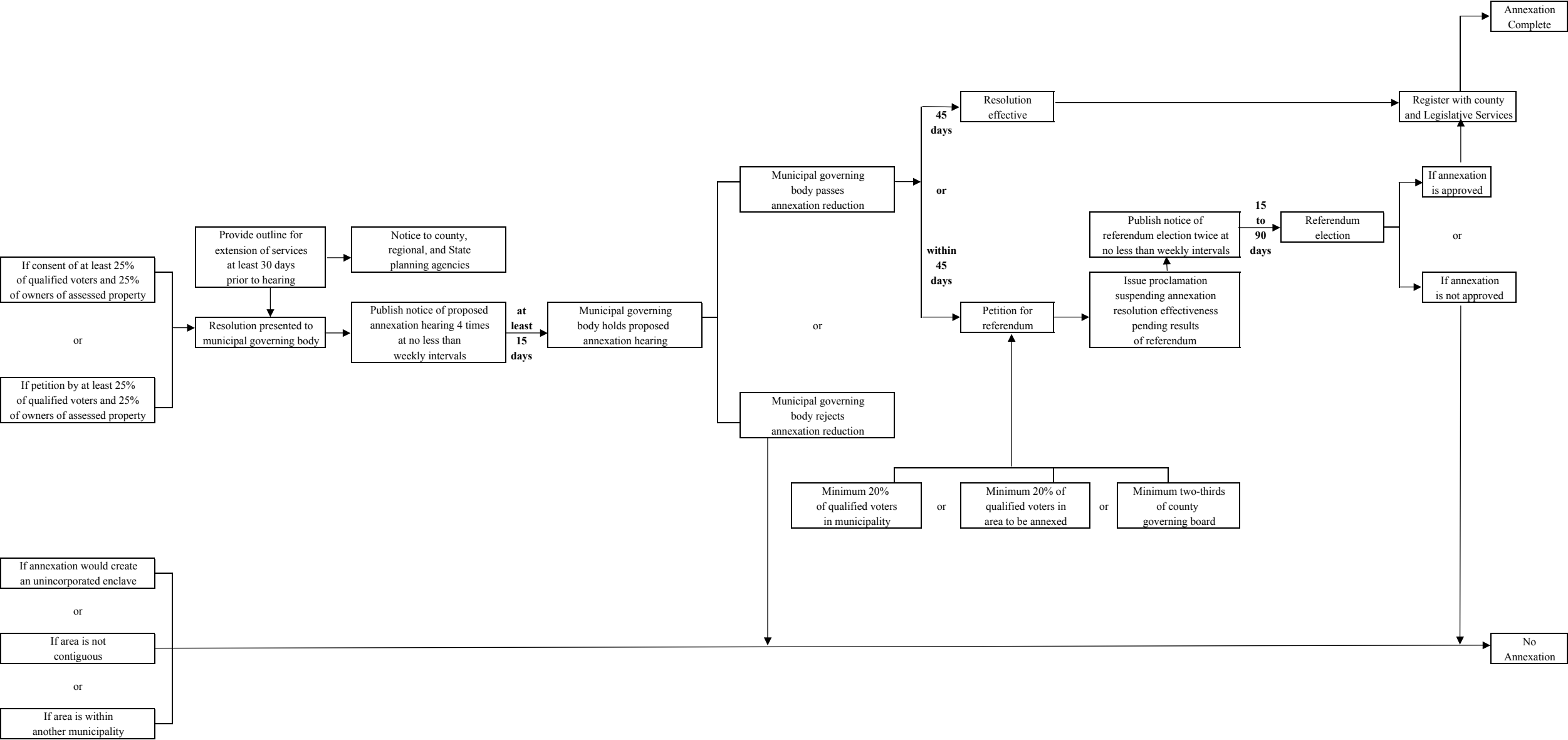
If a charter amendment is petitioned or submitted to referendum, the election may be held at the next regular municipal election or at a special election held within a statutorily prescribed time frame. Within ten days following an election, the mayor or chief executive officer of the municipal corporation is required to proclaim the results. The law prescribes the time that a proposed charter amendment normally takes effect, subject to certain procedural requirements under Article 23A of the Annotated Code of Maryland.

## **Annexations**

As part of its home rule powers, a municipal corporation may annex contiguous, unincorporated property in accordance with the provisions of Article 23A, Section 19 of the Annotated Code of Maryland. Unlike the incorporation process, a municipal corporation may exercise this power without obtaining county approval. An annexation may be initiated by the municipal legislative body or by petition of the residents of the area seeking annexation. The legislative body must satisfy public notice and hearing requirements on the resolution to incorporate. The annexation resolution becomes effective after the favorable vote by the legislative body, provided that the resolution is not petitioned to a referendum by the residents of the area seeking annexation, by the municipal residents, or by the county governing body. The annexation process is outlined in Exhibit 3.6. Following annexation, Article 23A, Section 9(c) of the Annotated Code of Maryland restricts substantial changes in the zoning classification without consent of the county.



Municipal Annexation Process





## Urban Renewal

Notwithstanding the broad grant of municipal home rule authority, a municipal corporation must receive express authority from the General Assembly in order to exercise urban renewal powers for slum clearance. The Urban Renewal Amendment, Article III, Section 61 of the Maryland Constitution, expressly provides that the General Assembly's authority to enact local laws regarding local urban renewal projects for slum clearance prevails over the restrictions under Article XI-E of the Constitution. To date, the General Assembly has granted authority under Article III, Section 61 to 62 municipal corporations. This authority is codified as an appendix to each of the municipal charters found in the *Public Local Laws of Maryland - Compilation of Municipal Charters*. Once granted such authority, a municipal corporation also is eligible to exercise eminent domain powers for individual blighted properties under Article 23A, Section 2(b)(37) of the Annotated Code of Maryland (see Appendix 3).

## Limitations on Municipal Authority

Although municipal corporations exercise broad home rule authority, such authority is not absolute. Article XI-E, Section 6 of the Maryland Constitution provides, in part, that “[a]ll charter provisions, or amendments thereto ... shall be subject to all applicable [public general] laws enacted by the General Assembly...” This provision also restricts municipal corporations from regulating alcoholic beverage sales as well as sales on Sundays (blue laws) in its charter. Article XI-E restricts a municipal corporation from imposing “any tax, license fee, franchise tax or fee” unless it was in effect on January 1, 1954, or authorized by the General Assembly for all municipal corporations within a given class. Moreover, the governing body of a municipal corporation may not legislate in areas that have been preempted by the State either by express preemption or preemption by implication.

## Codification of Municipal Charters

While municipal corporations have broad authority to amend their charters, the law requires municipal corporations to follow certain procedures. Under Article 23A, Section 9A(c) municipal corporations must regularly mail charter amendment resolutions, as well as all annexation resolutions, to the Department of Legislative Services within 10 days of the effective date of the resolution. Generally, provided that a resolution is not petitioned to referendum, the effective date for a charter resolution is 50 days after enactment, and for an annexation resolution, no earlier than 45 days after enactment (Article 23A, §§ 13(f) and 19(e)).



Pursuant to Chapter 77 of 1983, and Sections 10 and 11 of Chapter 14 of 1997, the Department of Legislative Services publishes a compilation of all the municipal charters, *Public Local Laws of Maryland - Compilation of Municipal Charters*. This publication contains the official version of the charter for each municipal corporation in the State and is updated annually to reflect the charter amendments that are passed by the legislative body of each municipal corporation. The compilation also includes the urban renewal powers that have been granted by the General Assembly under Article III, Section 61 of the Constitution of Maryland. An appendix to the charter of each of these municipal corporations reflects the specific urban renewal powers of that municipal corporation. The appendix may be amended or repealed only by the General Assembly.



## Chapter 4. Special Taxing Districts and Regional Agencies

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While the term “local government” usually refers to the counties and municipal corporations of the State, other local government entities known as special districts have been created by State or local law to address specific goals or needs within a small geographic area, or to deal with issues and problems that cross county boundaries. Despite sharing some features similar to counties and municipal corporations, these entities lack home rule authority and must come to the legislative body that created them in order to change the scope of their powers.

According to the United States Census Bureau’s *1997 Census of Governments*, Maryland has 241 special districts. The Census Bureau defines special districts as independent, special purpose governmental units, excluding school district governments, that exist as separate entities with substantial administrative and fiscal independence from general purpose governments. Exhibit 4.1 lists the number of special districts in each county and Baltimore City as defined by the United States Census Bureau. Special districts provide specific services that are not being supplied by existing general purpose governments. Although most special districts perform a single function, in some cases the enabling legislation for a special district allows provision of multiple services.

This chapter does not address every form of special district in Maryland. Instead, discussion is limited to multi-purpose special taxing districts that have been created by the General Assembly and the authority of Maryland’s counties and municipal corporations to establish special taxing districts within their boundaries. This chapter concludes with a brief overview of regional agencies that operate under State law, entities that may or may not fit the definition of a special district. However, these entities do work closely with local governments in their respective regions. The role of the General Assembly in relation to special districts is addressed in Chapter 5.



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**Exhibit 4.1**
**Special Districts Based on Census Classifications - 1997**

<u>County</u>	<u>Special Districts</u>
Allegany	15
Anne Arundel	45
Baltimore City	2
Baltimore	2
Calvert	2
Caroline	68
Carroll	1
Cecil	2
Charles	2
Dorchester	29
Frederick	3
Garrett	2
Harford	2
Howard	1
Kent	4
Montgomery	7
Prince George's	3
Queen Anne's	2
St. Mary's	1
Somerset	8
Talbot	3
Washington	3
Wicomico	17
Worcester	17

Source: U. S. Census Bureau, *1997 Census of Governments*

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## **Special Taxing Districts in Maryland**

This category of local government is quite broad. Special taxing districts include entities created by the General Assembly and those created by a county or municipal corporation. Some special taxing districts resemble municipal corporations, providing a range of municipal services. Other districts exist for a limited purpose, such as the financing of public drainage associations within a limited area or the creation and maintenance of street lighting in a particular neighborhood. Despite this variety in origin and powers, each district has some sort of tax-setting or fee-charging power.

### **Special Taxing Districts Created by the State**

Many of the quasi-municipal special taxing districts were created by legislation passed by the General Assembly. Unlike municipal corporations, these special taxing districts lack home rule powers and must come to the General Assembly for any changes affecting the district's authority.

In the past 20 years several of these special taxing districts have opted to become municipal corporations with home rule powers under Article XI-E of the Maryland Constitution. Exhibit 4.2 lists the five former special taxing districts created by the General Assembly that, through a referendum of their voters, have become municipal corporations; all are located in Montgomery County. These villages and towns are also the only new municipal incorporations created since 1954 when the Municipal Home Rule Amendment, Article XI-E of the Constitution, was ratified.

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#### **Exhibit 4.2**

#### **Municipal Corporations Originally Established as Special Taxing Districts**

<b><u>Name of Municipal Corporation</u></b>	<b><u>Year of Incorporation</u></b>
Village of Chevy Chase, Section 3	1982
Village of Chevy Chase, Section 5	1982
Village of Martin's Additions	1985
Town of Chevy Chase View	1993
Village of North Chevy Chase	1996

Source: Department of Legislative Services

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Today, there are 11 special taxing districts still in existence that were created by the General Assembly to address the needs of individual communities. Three of the districts are located in Montgomery County; eight are located in Allegany County. Each of these special taxing districts was created before its respective county obtained home rule status. Although home rule counties generally have authority to modify or abolish special taxing districts, there is an important limitation on such authority. Under Article 25A, Section 5(O) of the Annotated Code of Maryland, a home rule county's authority does not extend to special taxing districts performing municipal services, other than fire protection or library service, that are governed by a citizens' committee or a commission elected or appointed independently of the county's governing body.

The 11 extant special taxing districts are described below.

### **Allegany County**

*Bel Air Special Taxing Area* was created by Chapter 171 of 1965. It is governed by a citizens' committee of seven members elected to three-year staggered terms. Its primary purpose is to provide street lighting. Surplus resources are to be used for contributions to volunteer fire departments, playgrounds, and other facilities and services desired by residents. A maximum real property tax rate of 4 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2002 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.

*Bowling Green and Robert's Place Special Taxing Area* was created by Chapter 637 of 1972. It is governed by a citizens' committee of seven members elected for three-year staggered terms. Its purpose is to provide street lights, a water system, street signs, refuse collection, and recreational facilities with any surplus to be used for contributions to fire departments. A maximum real property tax rate of 3.2 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2002 was set at 3.2 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.

*Cresaptown Special Taxing District* was created by Chapter 169 of 1949. It is governed by the Cresaptown Civic Improvement Association, a citizens' committee of five members elected for five-year staggered terms. Its purpose is to provide a water supply system. A maximum property tax rate of 18 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2002 was set at 3.2 cents. The tax is levied by the County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.



*Ellerslie* was created by Chapter 587 of 1963. It is governed by a citizens' committee of five members elected for two-year staggered terms. Its primary purpose is to provide street lighting. Surplus resources are to be used for playgrounds and other projects and services desired by its residents. A maximum real property tax rate of 6 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2002 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.

*LaVale Sanitary District* was created by Chapter 13 of 1947. It is governed by three commissioners appointed to staggered six-year terms by the Allegany County Commissioners. Its purpose is to provide water and sewer service within the district. A maximum property tax rate of 40 cents per \$100 of assessable base may be adopted by the district commissioners. The real property tax rate in fiscal 2002 was set at 10 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.

*McCoole Special Taxing District* was created by Chapter 505 of 1965. It is governed by a citizens' committee of three members elected for three-year staggered terms. Its purpose is to provide street lighting. A maximum real property tax rate of 8 cents per \$100 of assessed value may be adopted by the committee. The real property tax rate in fiscal 2002 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.

*Mount Savage Special Tax Area* was created by Chapter 99 of 1950. It is governed by a citizens' committee of three members elected for two-year terms. Its purpose is to provide street lighting, with any surplus to be used for contributions to fire departments, playgrounds, water supply, and other projects and services desired by its residents. A maximum real property tax rate of 8 cents per \$100 of assessed value may be adopted by the citizens' committee. The real property tax rate in fiscal 2002 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes.

*Potomac Park Addition Taxing District* was created by Chapter 843 of 1947. It is governed by a citizens' committee of five members elected for two-year staggered terms. Its purpose is to provide street lighting and water for fire protection. Surplus resources are to be used for contributions to fire departments, playgrounds, water supply, and other projects and services desired by its residents. A maximum real property tax rate of 8 cents per \$100 of assessed value may be adopted by the citizens' committee. The real property tax rate in fiscal 2002 was set at 3.2 cents. The tax is levied by the Board of County Commissioners of



Allegany County on behalf of the district and collected in conjunction with county property taxes.

### **Montgomery County**

*Village of Drummond Special Taxing Area* was created by Chapter 22 of 1916. It is governed by a citizens' committee of three members elected annually. Its purpose is to construct and maintain streets, and to provide lighting, drainage, sewage, refuse, police, and fire services. A maximum real property tax rate of 14 cents per \$100 of assessed value and a five-year front foot assessment may be adopted by the citizens' committee. The real property tax rate in fiscal 2002 was set at 4.8 cents. Indebtedness of the area may not exceed 10 percent of the assessable base. The tax is levied by the Montgomery County Council on behalf of the district and collected in conjunction with county property taxes.

*Friendship Heights and "The Hills" Special Tax District* was created by Chapter 131 of 1914. It is governed by a village council of seven members elected to two-year terms. Its purpose is to regulate sanitation, buildings, and vehicles within the district. A real property tax rate of not less than 4 cents or more than 20 cents per \$100 of assessed value and a three-year front foot assessment may be adopted by the village council. The real property tax rate in fiscal 2002 was set at 8 cents. Indebtedness may not exceed 10 percent of the assessable base. The tax is levied by the Montgomery County Council on behalf of the district and collected in conjunction with county property taxes.

*Oakmont Special Tax District* was created by Chapter 190 of 1918. It is governed by a citizens' committee of three members elected to staggered three-year terms. Its purpose is to construct streets and regulate sanitation, buildings and vehicles. A maximum real property tax rate of 20 cents per \$100 of assessed value and a front foot assessment of not less than eight years or more than 15 years may be adopted by the citizens' committee. The real property tax rate in fiscal 2002 was set at 10 cents. Indebtedness may not exceed 2 percent of the assessable base. The tax is levied by the Montgomery County Council on behalf of the district and collected in conjunction with county property taxes.

### **Special Taxing Districts Created by County and Municipal Governments**

All counties have authority to establish special taxing districts for limited purposes, such as providing drainage improvements or providing electric street lighting. In addition, the governing bodies of counties that have adopted charter home rule or code home rule also have broad authority under the Express Powers Act to create special taxing districts to carry out most municipal services (Article 25A, Section 5(O) of the Annotated Code of Maryland).



The number of special taxing districts established under this authority varies significantly. Anne Arundel County has established over 50 special taxing districts known as community benefit districts. Other home rule counties have created few, if any, special taxing districts under this authority.

In addition, the General Assembly has granted eight counties (Anne Arundel, Calvert, Charles, Garrett, Howard, Prince George's, Washington, and Wicomico) and Baltimore City broad authority to create special taxing districts and to levy ad valorem taxes and issue bonds and other obligations for purposes of financing infrastructure improvements (Article 24, Section 9-1301 of the Annotated Code of Maryland and Charter of the City of Baltimore Art. II, Section 62A). The types of infrastructure improvements authorized include storm drainage systems, water and sewer systems, roads, lighting, parking, parks and recreational facilities, libraries, schools, transit facilities, and solid waste facilities.

The General Assembly also has authorized municipal corporations to create special taxing districts within their borders (Article 23A, Sections 44 and 44A, Annotated Code of Maryland). Special taxing districts may be established for purposes of storm drainage systems, public parking facilities, pedestrian malls, area and street lighting, bus systems, and other enumerated infrastructure improvements and municipal services. However, very few municipal corporations have established special taxing districts.

## **Regional Agencies**

Maryland has numerous governmental entities that have been established to address issues that transcend county boundaries or that are otherwise more effectively addressed on a regional basis. These entities vary in terms of organization, financing, services, and connection to the State or local governments, but they do share one common element – they were all established by legislation passed by the General Assembly.

Some of these entities serve as regional planning and development agencies such as the Baltimore Metropolitan Council, the Tri-County Council for the Lower Eastern Shore, the Tri-County Council for Southern Maryland, and the Tri-County Council for Western Maryland. Other agencies have been developed to address a more specific purpose on a regional basis. Sometimes these entities were established in connection with federal programs or in connection with cooperative efforts with governments outside of the State. Examples of regional agencies include the Northeast Maryland Waste Disposal Authority, a public corporation addressing waste disposal matters in the metropolitan region of the State; the Regional Education Service Agency of Appalachian Maryland, an agency that addresses educational matters in Western Maryland; the Upper Potomac River Commission, which



oversees the Savage River Dam and a sewage treatment facility, thereby regulating flow to the Potomac River; and the Washington Suburban Transit Commission, which coordinates Maryland's involvement under the Washington Metropolitan Area Transit Compact.

Two regional agencies that serve the Montgomery County and Prince George's County area, the Maryland-National Capital Park and Planning Commission and Washington Suburban Sanitary Commission, deserve additional discussion due to the level of attention they receive every session by the General Assembly.

### **Maryland-National Capital Park and Planning Commission**

The Maryland-National Capital Park and Planning Commission was created by Chapter 448 of 1927. The commission has jurisdiction over parks and land use planning in most of Montgomery and Prince George's counties. The commission is governed by Article 28 of the Annotated Code of Maryland.

The commission consists of ten members serving staggered four-year terms. Five members are appointed from each county. In Prince George's County, members are appointed by the county executive with the approval of the county council. In Montgomery County, the members are appointed by the county council, subject to the approval of the county executive. State law prescribes procedures for the appointment of commission members and selection of the commission chairman and vice chairman. The five members of the commission from each county also serve as the planning board for their respective counties.

The commission prepares and administers a general plan for the physical development of the Maryland-Washington Regional District, an area that encompasses almost all of Montgomery and Prince George's counties. This general plan is subject to the concurrence of each county council, sitting in its capacity as district council for its own county. At the direction of the respective district councils, the commission divides the general plan into planning areas and prepares master plans for each local planning area. The local master plans must include recommendations for zoning and the staging of development and necessary public improvements. The local master plans are subject to the approval of the governing district council. The commission may recommend subdivision regulations for adoption by the county council. The district council of each county generally exercises zoning authority over its own county under Article 28 of the Annotated Code of Maryland.

The commission is charged with acquiring and maintaining a system of parks within the metropolitan district in the two counties. In addition, the commission operates a recreation system for Prince George's County. The commission is funded primarily through



various property taxes authorized under Article 28 of the Annotated Code of Maryland and imposed by Montgomery and Prince George's counties. In addition, enterprise fund operations are supported by various service fees and charges.

### **Washington Suburban Sanitary Commission**

The Washington Suburban Sanitary Commission (WSSC) was created by Chapter 122 of 1918. The primary purpose of the commission is to provide water service and sewage treatment service in Montgomery and Prince George's counties. The commission is governed by Article 29 of the Annotated Code of Maryland.

The sanitary commission consists of six members serving staggered four-year terms. Three members are appointed from each county by the county executive, subject to confirmation by the county council of that county. State law prescribes procedures for the appointment of commission members and selection of the commission chairman.

The commission serves nearly all of Montgomery and Prince George's counties. In Montgomery County, the Town of Poolesville operates its own water and sewer systems and the City of Rockville operates its own water system. In Prince George's County, the City of Bowie operates its own water and sewer systems although the commission does provide water in a portion of Bowie. The commission obtains water from the Patuxent River reservoirs and the Potomac River. Sewage treatment is provided at various facilities throughout the region, including the Blue Plains Wastewater Treatment Plant where services are provided in conjunction with Washington, DC.

In addition to water and sewer charges, Article 29 of the Annotated Code of Maryland authorizes several charges and fees relating to services, including a system development charge tied to new development. To meet infrastructure demands, the commission is authorized to issue long-term debt (debt extending beyond five years) in an amount not exceeding 7 percent of the assessable base of property assessed for county taxation purposes in Montgomery and Prince George's counties as of July 1, 1997. Currently, approximately \$0.35 for every dollar paid to the sanitary commission in water and sewer bills is spent for purposes of debt service. The commission is also authorized to issue revenue bonds to finance or refinance all or part of the costs associated with the development and operation of technological projects that are related to the commission's expertise in running water and wastewater systems. These bonds are not considered to constitute a pledge of the full faith and credit of the WSSC or any other taxing power and are tax-exempt at the local and State levels.







## **Chapter 5. Interrelationship between the Maryland General Assembly and Local Government**

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As the State's legislature, the Maryland General Assembly inherently possesses full power to legislate for the entire State and for its political subdivisions, subject only to limitations imposed by the United States Constitution and the Maryland Constitution. By contrast, the State's counties and municipal corporations only possess authority to legislate in those areas authorized by the Maryland Constitution or by the Maryland General Assembly. Furthermore, the authority of counties and municipal corporations is often limited by the decisions of the General Assembly to preempt subject areas of statewide concern.

There is a long history in the General Assembly of passing legislation applicable to individual political subdivisions or exempting individual political subdivisions from legislation that otherwise applies throughout the State. Of the 2,365 bills introduced during the 2002 legislative session, approximately 11 percent dealt with one or two counties, not including State bond bills introduced to finance projects in individual counties. This illustrates that a significant volume of the work of the General Assembly still involves local matters. Questions frequently arise, however, regarding the authority of the General Assembly to pass local legislation, and the answer may vary depending on the constitutional provisions governing the affected political subdivision. Conversely, on the local government level, questions frequently arise regarding the authority to legislate in a given subject area; again, the answer may vary based on the form of local government or the actions taken at the State level in the affected subject area.

This chapter attempts to answer some of the questions that arise regarding the interaction of Maryland's State and local governments. First, this chapter discusses the distinction between public general laws and public local laws and explains the manner in which the General Assembly traditionally handles local legislation. This chapter proceeds to address the authority of the General Assembly to adopt local legislation affecting the powers of counties and municipal corporations. Finally, this chapter discusses State preemption, conflicts between State and local law, and conflicts between county and municipal law.

### **Public General and Public Local Laws**

In reviewing the authority of the General Assembly to adopt local legislation, it is important to understand the distinction between public general laws and public local laws. This distinction is clouded by the fact that a bill interpreted as a local law for some purposes may be interpreted as a public general law for other purposes. As explained by



the Court of Appeals, “a law is not necessarily a local law merely because its operation is confined to ... a single county, if it affects the interests of the people of the whole State.” (*Gaither v. Jackson*, 147 Md. 655, 667 (1925)).

The General Assembly has the authority to pass legislation that applies throughout the State. The authority of the General Assembly to pass legislation affecting single or multiple political subdivisions varies based on the form of local government and relevant constitutional provisions, a concept addressed below in detail. Legislation applicable to a single political subdivision generally is referred to as a public local law. By contrast, legislation applicable to two or more political subdivisions or applicable throughout the State is referred to as a public general law. Public local laws are usually codified in the Code of Public Local Laws of the applicable political subdivision but may alternatively be codified in the Annotated Code of Maryland. A public local law might also be uncodified, in which case it would appear only in the session laws that are published following the completion of each legislative session. Regardless of the form of local government, the General Assembly may pass legislation affecting individual political subdivisions in subject areas that have been pre-empted by the State.

One important distinction between public general laws and public local laws relates to the ability of the General Assembly to condition legislation on approval by the voters. The General Assembly may not submit a public general law to a referendum of the voters, as this action would be an unconstitutional delegation of its legislative authority. The enactment of a public local law, however, may be made contingent on the approval of the voters in the area or political subdivision affected by the legislation.

## **Local Bill Process in the General Assembly**

### **Local Courtesy**

Legislation pertaining to a single political subdivision or a limited number of political subdivisions is usually afforded “local courtesy.” If the legislation has the support of the citizens of a particular political subdivision, as expressed by the legislators elected to represent that political subdivision, then the members of the General Assembly representing other areas of the State, as a courtesy, usually will acquiesce to the wishes of the legislators of the affected political subdivision. Exceptions occasionally occur when other legislators believe that an ostensibly local bill has statewide implications. The concept of local courtesy is historically based on an expectation that members of the legislative delegation of a county or Baltimore City are the best judges of issues relevant solely to their own political subdivision.



## **Local Delegations and Select Committees**

After the 2000 census, each legislative district of the State, represented by one senator and three delegates, includes approximately 113,000 citizens. Fifteen of the 47 legislative districts are divided into two or three subdistricts where each delegate represents either one-third or two-thirds of the district's population. In the heavily populated, metropolitan areas of the State, a member of the Senate or the House of Delegates represents a small region of a county or Baltimore City. In the rural areas, such as Maryland's Eastern Shore, a senator or delegate may represent citizens of three or four counties. In either scenario, local courtesy provides that if a majority of the members of the Senate or the House of Delegates representing a particular political subdivision support or oppose local legislation, the rest of the senators or delegates generally will acquiesce in that decision.

The House of Delegates is organized into local county delegations for the purpose of considering local legislation. The rural counties also meet as regional delegations. Although the *Rules of the Maryland House of Delegates* allows for a delegation to act as a "select committee" for consideration of local legislation, in practice local bills approved by the appropriate delegation are referred to a House standing committee. The standing committee generally defers to the position taken by the local delegation. In the Senate, select committees consisting of single counties or groups of sparsely populated counties consider local legislation. For some counties the members of the Senate and the House of Delegates meet together for consideration of local legislation. For most counties local legislation is introduced in the House of Delegates. If the legislation passes in the House, it then is considered by the Senate.

Procedures for consideration vary significantly among delegations. While procedures in many of the rural delegations are very informal, several of the more urban delegations have established elaborate procedures for consideration of local legislation. The Howard County, Montgomery County, and Prince George's County delegations have adopted the most complex procedures for their respective delegations. Each of these counties has published deadlines for its members to submit proposed local legislation for consideration before each legislative session. County administration proposals generally are submitted by the delegation chair on behalf of the county administration. These bills are drafted by the Office of Policy Analysis in the Department of Legislative Services and are assigned unique local bill numbers. Copies of the draft bills (which have not been actually introduced in the General Assembly at this stage) are distributed at public hearings conducted in the respective counties before the start of the legislative session.

Following public hearings or early in the legislation session, a delegation or a committee of a delegation will consider each appropriate local bill and may extensively



amend a bill before it is formally introduced in the General Assembly. If the bill receives approval of the full delegation, it will be introduced under the sponsorship of the delegation. A delegation sometimes will not complete its work before the House of Delegates bill introduction deadline, at which time the bills may be introduced before delegation approval in order to meet the deadline. A standing committee will delay formal action on a bill until it receives written notice of the appropriate delegation's approval of the bill. The General Assembly considers numerous bills each session that affect the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission, entities that operate under State law in Montgomery and Prince George's counties. The local process for these bills is further complicated because these bills must be considered and approved by both county delegations before a standing committee of the House will take action.

An issue that occasionally results in controversy in local delegations is the weight given to the vote of a legislator whose district crosses county lines and who therefore represents fewer citizens in the respective county than legislators whose districts are entirely within the county. The *Rules of the Maryland House of Delegates* establish that each delegate who represents any portion of a county or Baltimore City is entitled to one vote unless "[a]fter an opportunity for all delegates to be heard, a majority of delegation members ... voting ... elect to allocate nonresident delegates less than one full vote." The vote of a delegate whose district is not entirely within the county may not be less than one-third of a full vote.

One might expect that the adoption of home rule would reduce the number of local bills a delegation might need to consider in the General Assembly. In fact, because the majority of charter counties are found in the more heavily populated regions of the State and provide more in terms of governmental services, these counties tend to have a significant number of local bills before the General Assembly each session. Only when evaluated on a per capita basis is the effect of home rule demonstrated in terms of reducing the work load of the General Assembly.

## **Commission Counties**

Ten of Maryland's counties continue to operate under traditional county commission government. These "commission counties" are Calvert, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, St. Mary's, Somerset, and Washington counties.

Article VII, Section 2 of the Maryland Constitution provides in part that the "powers and duties of the County Commissioners ... shall be such as now are or may be hereafter prescribed by law." Commission counties gradually have been granted a significant amount of local authority and discretion in addressing local affairs, authority



sometimes referred to as “statutory home rule.” Nevertheless, the powers granted commission counties are more limited than the powers available to those counties that have adopted either charter or code home rule under the Maryland Constitution. Outside of those areas where all counties have been granted local authority, however, there is little uniformity in the powers of each commission county. This inconsistency is due in part to variations in industry and geography and the long tradition of local courtesy in the General Assembly.

A review of legislation considered by the General Assembly during the 2002 legislative session pertaining to individual commission counties illustrates the legislature’s involvement in local matters that would not have been considered for home rule counties. Examples of these issues include the salaries and benefits of county officers and employees, county procurement matters, local consumer affairs, local licensing and registration, animal control, the composition of county agencies, zoning, and local regulation of farming, the seafood industry, and nuisances. The important point to remember is that the General Assembly is not in any way limited under the Maryland Constitution in passing legislation applicable to single commission counties.

## **Charter Home Rule Counties**

Eight of Maryland’s counties have adopted charter home rule under Article XI-A of the Constitution of Maryland. These “charter counties” are Anne Arundel, Baltimore, Harford, Howard, Montgomery, Prince George’s, Talbot, and Wicomico counties.

As explained in Chapter 2, Article XI-A, Section 2 of the Maryland Constitution requires the General Assembly to provide by public general law a grant of express powers for those counties that elect to adopt charter home rule. The General Assembly has fulfilled this mandate by enacting Article 25A, Sections 4 and 5 of the Annotated Code of Maryland (the “Express Powers Act”). By giving charter counties authority to legislate in a given area under the express powers, the General Assembly delegates its authority to legislate in that area for an individual charter county to the county council of that county. Consistent with the concept of home rule, Article XI-A, Section 4 of the Maryland Constitution prohibits the General Assembly from enacting a public local law for a charter county “on any subject covered by the express powers granted.” A bill applicable to two or more counties or a county and Baltimore City, however, is not a local bill for purposes of this restriction. The General Assembly may enact such legislation notwithstanding any inconsistency with local legislation enacted by a county under the express powers granted to charter counties, in which case, under Article XI-A, Section 3 of the Maryland Constitution, the public general law would control.



The General Assembly also retains authority to adopt local laws applicable to individual charter counties on matters not addressed by the Express Powers Act. For example, because the Express Powers Act does not grant charter counties authority to impose a tax, other than the property tax, the General Assembly may pass legislation authorizing a single charter county to impose a tax which, absent such authority, the county would be unable to impose. Other subject areas not delegated to charter counties under the Express Powers Act include the regulation of alcoholic beverages, control over offices established in each county under the Maryland Constitution, such as the offices of sheriff and State's Attorney, and other matters such as public education where the State has preempted local regulation.

## **Code Home Rule Counties**

Five of Maryland's counties have adopted code home rule under Article XI-F of the Maryland Constitution. These "code counties" are Allegany, Caroline, Kent, Queen Anne's, and Worcester counties.

A code county has significant autonomy in its ability to address local issues. As addressed under Chapter 2, the exact scope of a code county's authority has been subject to debate, primarily due to the definition of a "public local law" under provisions of the Maryland Constitution governing code home rule. Article XI-F, Section 1 of the Maryland Constitution defines "public local law" in part as "a law applicable to the incorporation, organization, or government of a code county and *contained* in the county's code of public local laws ...." (emphasis added). When the definition of public local law is read literally, the authority of the county commissioners to enact local legislation would appear to turn on the codification of the law. The Constitution, however, also limits the authority of the General Assembly to legislate for counties that have adopted code home rule. Article XI-F, Section 4 of the Maryland Constitution provides:

[e]xcept as otherwise provided in this Article, the General Assembly shall not enact, amend, or repeal a public local law which is special or local in its terms or effect within a code county. The General Assembly may enact, amend, or repeal public local laws applicable to code counties only by general enactments which in term and effect apply alike to all code counties in one or more of the classes provided for in [Article XI-F, Section 5].



Article XI-F, Section 5 of the Maryland Constitution authorizes the General Assembly to classify code counties by grouping them into not more than four classes, based either on population or on other criteria that the General Assembly determines appropriate.

Although there are no appellate court cases that have examined Article XI-F of the Maryland Constitution, it has been subject to an in-depth analysis by the Office of the Attorney General. In interpreting the authority of the General Assembly to legislate for code counties, the Attorney General concluded in part that, subject to stated exceptions, Article XI-F, Section 4 of the Maryland Constitution “*implicitly prohibits* the General Assembly from [enacting, amending, or repealing special or local laws in code counties] by not codifying an enactment in the code of public local laws ... [or] by making an enactment applicable to two but less than all of the code counties in a given class.” (62 Op. Att’y Gen. 275, 307 (1977) (*emphasis in original*)).

From 1966, when Article XI-F of the Maryland Constitution was ratified, until October 1997, there was a single class of code counties. In 1997 (Ch. 666) the General Assembly divided the State into 4 regions for purposes of code home rule: Central Maryland, Eastern Shore, Southern Maryland, and Western Maryland. Currently, four of the five code counties (Caroline, Kent, Queen Anne’s, and Worcester) are on the Eastern Shore, while Allegany County is the only code county in Western Maryland.

Notwithstanding the general restriction on the ability of the General Assembly to adopt legislation affecting individual code counties, Article XI-F, Section 8 of the Maryland Constitution grants the General Assembly exclusive authority to enact a local law that sets a maximum property tax rate for a code county or that caps the maximum amount of indebtedness that a code county may incur. The General Assembly, however, has not chosen to exercise its authority under this provision for any county that has adopted code home rule.

## **Baltimore City**

The City of Baltimore is a unique public corporation under the Maryland Constitution, based on its historical role in the development of the State. Except as otherwise provided in the Maryland Constitution, the General Assembly has the same authority over Baltimore City as it does over a charter county in the State. Article 1, Section 14 of the Annotated Code of Maryland provides that throughout the Code, “[t]he word county shall be construed to include the City of Baltimore, unless such construction would be unreasonable.”

Because the express powers granted to Baltimore City by the General Assembly are codified in Article II of the Baltimore City Charter, and the express powers under



Article 25A, Section 5 of the Annotated Code of Maryland for charter counties do not apply to Baltimore City, the General Assembly is not restrained in modifying the grant of powers affecting Baltimore City alone. Therefore, the General Assembly retains greater authority in legislating for Baltimore City than in legislating for individual home rule counties. The powers granted by the General Assembly under Article II of the Baltimore City Charter, however, are very similar to the express powers that the General Assembly has granted charter counties under Article 25A of the Annotated Code of Maryland.

Although there are a number of provisions in the Maryland Constitution unique to Baltimore City, one significant difference between home rule counties and Baltimore City relates to Baltimore City's authority to issue debt. Under Article XI, Section 7 of the Maryland Constitution, Baltimore City may not generally incur long term debt unless first authorized by an ordinance of the Mayor and City Council and then approved by the voters of Baltimore City. The ordinance may not be placed on the ballot unless the proposed creation of debt is either presented to and approved by the majority of members of the General Assembly representing Baltimore City no later than the 30th day of the regular legislative session preceding the ballot or authorized by an act of the General Assembly. In practice, the Baltimore City Administration circulates a packet of proposed projects to the Senators and Delegates representing Baltimore City with accompanying resolutions for their signatures. The final package is then filed with the clerk of the House of Delegates for printing in the House Journal.

## **Municipal Corporations**

Since the adoption of the municipal home rule amendment to the Maryland Constitution in 1954, the role of the General Assembly in municipal affairs has diminished significantly. Before 1954, the General Assembly was authorized to grant, amend, and repeal individual charters for municipal corporations. Under Article XI-E of the Maryland Constitution each municipal corporation possesses home rule. The municipal home rule amendment is discussed in Chapter 3. Article XI-E, Section 1 of the constitution precludes the General Assembly from passing a law "relating to the incorporation, organization, government, or affairs ... of ... municipal corporations ... which will be special or local in its terms or in its effect." The General Assembly may only pass such legislation by a general law that applies to all municipal corporations in a given class.

The Maryland Constitution requires the General Assembly to classify municipal corporations into not more than four classes based on population. The General Assembly has complied with this mandate in enacting Article 23A, Section 10 of the Annotated Code of Maryland, in which it is declared that all municipal corporations constitute a single class.



Notwithstanding the general restriction on the General Assembly legislating for individual municipal corporations, the Maryland Constitution does provide for certain exceptions. Article XI-E, Section 5 of the Maryland Constitution authorizes the General Assembly to pass local legislation limiting the property tax rate that a municipal corporation might impose or the amount of indebtedness that the municipal corporation may incur. Such an act would be subject to the approval of the voters of the municipal corporation. This authority, however, is not an exclusive power of the General Assembly. A municipal corporation could take similar action through an amendment to its charter and only if the General Assembly imposed a more restrictive provision would the act of the General Assembly preempt the action of the municipal corporation. To date, the General Assembly has not exercised its authority under this provision for any municipal corporation.

Another exception found under Article III, Section 61 of the Maryland Constitution concerns local urban renewal projects for slum clearance. This provision, allowing the General Assembly to authorize a county or municipal corporation, by public local law, to carry out urban renewal projects and to condemn property for this purpose, prevails over the provisions of Article XI-E. To date, 62 of Maryland's 156 municipal corporations have been granted urban renewal authority by the General Assembly under Article III, Section 61 of the Maryland Constitution. Once granted this authority, a municipal corporation may condemn individual blighted properties under the express powers of municipal corporations granted by the General Assembly. (Article 23A, Section 2(b)(37) of the Annotated Code of Maryland).

## **Special Districts and Regional Agencies**

As explained in Chapter 4, there are special taxing districts in Maryland that were created by the General Assembly and that operate similarly to municipal corporations. They provide a range of public services or provide an individual service in a specific region, which may be an area that extends beyond a single county. Unlike home rule counties or municipal corporations, the Maryland Constitution does not restrict the General Assembly from modifying the law governing these districts, nor does the constitution restrict the General Assembly from modifying the law governing regional agencies such as the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission.

Other multi-purpose or single-purpose special taxing districts have been established by local governments under various enabling authority granted by the General Assembly. Charter counties generally are authorized to "establish, modify, amend and abolish special taxing areas for any of the purposes enumerated in [Article 25A of the Annotated Code of Maryland]." Although the General Assembly may amend the law authorizing these districts, the General Assembly generally does not pass legislation



affecting the individual districts. There are possible exceptions, however, in cases where a special taxing district created by a local government seeks authority over a matter that the local government is not authorized to address.

There is an important limitation protecting special taxing districts that were established by the General Assembly to provide municipal services in a charter or code county and that are governed or administered by a citizens' committee or a commission elected or appointed independently of the county governing body. Unless the special taxing district was established solely for fire protection or library service, the district is beyond the reach of the respective county's authority. Any change in the authority or existence of a special taxing district would generally be within the exclusive domain of the General Assembly. In a code county, however, action by both the General Assembly and county commissioners could conceivably be required to affect a district established by public local law before the adoption of code home rule.

## **Conflict of Laws/State Preemption**

Conflict between laws is inevitable as different levels of government seek to shape policy through legislation. The Constitution of Maryland, State statutes, and case law provide guidance when conflicts occur. This section addresses constitutional and statutory provisions governing conflicts of law, the concurrent powers doctrine, the issue of State preemption, and the relationship between county and municipal law.

### **Constitutional/Statutory Provisions**

Under the home rule provisions of the Maryland Constitution, when a conflict results between a public general law passed by the General Assembly and a local law passed by a charter or code county, the public general law controls. In contrast, under Article 1, Section 13 of the Annotated Code of Maryland, a conflict between a public general law and a public local law *passed by the General Assembly* is resolved in favor of the public local law.

In some cases, the State and local government will have concurrent powers in a given area, and the courts will attempt to reconcile the State and local law. In other areas, the State may preempt local authority in matters of State concern.

### **Concurrent Powers Doctrine**

The powers of the State and a local government to legislate in the same field are called concurrent powers. When both governments pass laws in the same field, however, an issue arises as to what extent the State has restricted local government's role by State



involvement in that field. Under the concurrent powers doctrine, unless a public general law contains an express denial of the right to act by local authorities, the State's regulation of certain activity in a field does not mean that a local government cannot enact laws in that field. For example, the Court of Appeals upheld Baltimore City's minimum wage law that required higher rates than the State minimum wage law. (*City of Baltimore v. Sitnick & Firey*, 254 Md. 303 (1969)). Even though the State had regulated minimum wages, Baltimore City's law was still valid because the State had not expressly prohibited local legislation on minimum wages. Rather than conflict with State regulation, the Baltimore City law was viewed as supplemental regulation. This doctrine, however, is not absolute. As the court recognized, "there may be times when the legislature may so forcibly express its intent to occupy a specific field of regulation that the acceptance of the doctrine of pre-emption by occupation is compelled."

### **State Preemption**

The State may preempt a local law in the following three ways: (1) express preemption; (2) implied preemption; and (3) preemption by conflict.

Express preemption is based on the authority of the General Assembly to reserve for itself "exclusive dominion over an entire field of legislative concern." (*Ad & Soil, Inc. v. County Comm'rs*, 307 Md. 307, 324 (1986)). Express preemption is not difficult to discern because the language generally is clear and unambiguous. An example of express preemption was recognized by the Court of Appeals in invalidating a Montgomery County ordinance regulating the sale of ammunition. (*Montgomery County v. Atlantic Guns, Inc.*, 302 Md. 540 (1985)). The court ruled that the State had expressly preempted this area.

Implied preemption is more difficult to define because its meaning is ascertained on a case-by-case basis. In determining whether the General Assembly has impliedly preempted a field, the courts primarily consider the comprehensiveness with which the General Assembly has legislated in the field. The courts also consider a variety of secondary factors, including:

- whether local laws existed before the enactment of the State laws governing the same subject matter;
- whether the State laws provide for pervasive administrative regulation;
- whether the local law regulates an area in which some local control has traditionally been allowed;



- whether the State law expressly provides concurrent legislative authority to local jurisdictions or requires compliance with local law;
- whether a State agency responsible for administering and enforcing the State law has recognized local authority to act in the field;
- whether the particular aspect of the field sought to be regulated by the local government has been addressed by the State legislation; and
- whether a two-tiered regulatory process, if local laws were not preempted, would engender chaos and confusion.

Examples of areas where the Court of Appeals has found that the General Assembly has implicitly preempted local regulation include campaign finance regulation, education, and the regulation of cigarette vending machines.

Preemption by conflict generally occurs when a local ordinance prohibits an activity that is allowed by State law or allows an activity that is prohibited by State law. The courts occasionally are called on to determine whether a “conflict” exists, assuming appropriate local authority exists. As early as 1909 the Court of Appeals addressed the relationship between State law and local ordinances. A local ordinance, “must not directly or indirectly contravene the general law. Hence, ordinances which assume directly or indirectly to permit acts or occupation which [public general laws] prohibit, or to prohibit acts permitted by [the public general laws] or constitution, are under the familiar rule for validity of ordinances uniformly declared to be null and void.” However, “[a]dditional regulation by the ordinances does not render it void.” (*Rossberg v. State*, 111 Md. 394, 416-417 (1909)). Whenever reasonably possible, the courts will try to construe legislation so that a conflict is avoided. However, sometimes conflicts occur. An example of a case where the Court of Appeals has found a local ordinance in conflict with State public general law is *County Council v. Investors Funding*, 270 Md. 403 (1973), in which Montgomery County sought to regulate retaliatory evictions. The court found that the local ordinance conflicted with the State’s summary eviction statute and therefore was invalid.

### **Conflict between County and Municipal Law**

Although less significant in terms of the legislative process in the General Assembly, questions occasionally arise concerning the effect of county law within municipal corporations. In 1981 confusion resulted from a Court of Appeals decision that held that a county law superceded the law of a municipal corporation if the two provisions were in conflict. (*Town of Forest Heights v. Frank*, 291 Md. 331(1981)).



Most municipal corporations, particularly the larger ones, had presumed a substantial degree of autonomy in relation to county government. Following a compromise by county and municipal interests, the General Assembly passed legislation defining the types of county legislation applicable to a municipal corporation within the county.

As long as the county legislation is within the scope of authority granted to the county, certain categories of county legislation generally apply within the boundaries of a municipal corporation in that county. First, county legislation applies within a municipal corporation if provided by a law passed by the General Assembly. Second, subject to the Tax-General Article, Tax-Property Article, and Article 24 of the Annotated Code, the area within a municipal corporation is subject to county revenue or tax legislation, and legislation adopting the county budget. Finally, county legislation that becomes effective immediately on the affirmative vote of at least two-thirds of the county governing body applies to the area within a municipal corporation. The vote must follow a specific finding, after a public hearing, that there would be a significant adverse impact on the public health, safety, or welfare affecting residents in unincorporated areas of the county if the county legislation does not apply in all municipal corporations in the county. Additionally, county legislation enacted under this third category is subject to specific procedural requirements, including a right of judicial review.







# **Appendix 1**

## **Select Provisions of the Maryland Constitution**

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### **Article VII - Sundry Officers**

#### **Section 1.**

The County Commissioners of each county not governed by Article XI-A of this Constitution may be elected by the voters of commissioner districts established therein, or by the voters of the entire county, or by a combination of these methods of election, as provided by the General Assembly by law.

#### **Section 2.**

The number, compensation, and powers and duties of the County Commissioners of each county not governed by Article XI-A of this Constitution shall be such as now are or may be hereafter prescribed by law.

### **Article XI - City of Baltimore**

#### **Section 1.**

The Inhabitants of the City of Baltimore, qualified by Law to vote in said city for members of the House of Delegates, shall on the fourth Wednesday of October, eighteen hundred and sixty-seven, and on the same day in every fourth year thereafter, elect a person to be Mayor of the City of Baltimore, who shall have such qualifications, receive such compensation, discharge such duties, and have such powers as are now, or may hereafter be prescribed by Law; and the term of whose office shall commence on the first Monday of November succeeding his election, and shall continue for four years, and until his successor shall have qualified; and he shall be ineligible for the term next succeeding that for which he was elected.

#### **Section 2.**

The City Council of Baltimore shall consist of Two Branches, one of which shall be called the First Branch, and the other the Second Branch; and each shall consist of such number of members, having such qualification, receiving such compensation, performing such duties, possessing such powers, holding such terms of office, and elected in such manner, as are now, or may hereafter be prescribed by Law.



## Section 3.

An election for members of the First and Second Branch of the City Council of Baltimore shall be held in the City of Baltimore on the fourth Wednesday of October, eighteen hundred and sixty-seven; and for members of the First Branch on the same day in every year thereafter; and for members of the Second Branch on the same day in every second year thereafter; and the qualification for electors of the members of the City Council shall be the same as those prescribed for the electors of Mayor.

## Section 4.

The regular sessions of the City Council of Baltimore, (which shall be annual,) shall commence on the third Monday of January of each year, and shall not continue more than ninety days, exclusive of Sundays; but the Mayor may convene the City Council in extra session whenever, and as often as it may appear to him that the public good may require; but no called, or extra session shall last longer than twenty days, exclusive of Sundays.

## Section 5.

No person, elected and qualified as Mayor, or as a member of the City Council, shall, during the term for which he was elected, hold any other office of profit or trust, created, or to be created, by the Mayor and City Council of Baltimore, or by any Law relating to the Corporation of Baltimore, or hold any employment, or position, the compensation of which shall be paid, directly or indirectly, out of the City Treasury; nor shall any such person be interested, directly or indirectly, in any contract, to which the City is a party; nor shall it be lawful for any person, holding any office, under the City, to be interested, while holding such office, in any contract, to which the City is a party.

## Section 6.

The Mayor shall, on conviction in a Court of Law; of willful neglect of duty, or misbehavior in office, be removed from office by the Governor of the State, and a successor shall thereafter be elected, as in case of vacancy.

## Section 7.

From and after the adoption of this Constitution, no debt except as hereinafter provided in this section, shall be created by the Mayor and City Council of Baltimore; nor shall the credit of the Mayor and City Council of Baltimore be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the Mayor and City Council of Baltimore have the power to involve the City of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the City, nor make any appropriation therefore, unless the debt or credit is authorized by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by the



ordinance, and approved by a majority of the votes cast at that time and place. An ordinance for the authorization of debt or credit as aforesaid may not be submitted to the legal voters of Baltimore City unless the proposed creation of debt or extension of credit is either (1) presented to and approved by a majority of the members of the General Assembly representing Baltimore City no later than the 30th day of the regular session of the General Assembly immediately preceding its submission to the voters, or (2) authorized by an act of the General Assembly. The ordinance shall provide for the discharge of any such debt or credit within the period of 40 years from the time of contracting the same. The Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the City treasury, and may borrow any amount at any time to provide for any emergency arising from the necessity of maintaining the police, or preserving the health, safety and sanitary condition of the City, and may make due and proper arrangements and agreements for the renewal and extension, in whole or in part, of any and all debts and obligations created according to law before the adoption of this Constitution.

The General Assembly may, from time to time, fix a limit upon the aggregate amount of bonds and other evidences of indebtedness of the City outstanding at any one time to the same extent as it fixes such a limit upon the indebtedness of the chartered counties.

#### Section 8.

All Laws and Ordinances, now in force, applicable to the City of Baltimore, not inconsistent with this Article, shall be, and they are hereby continued until changed in due course of Law.

#### Section 9.

The General Assembly may make such changes in this Article, except in Section seventh thereof, as it may deem best; and this Article shall not be so construed, or taken as to make the political Corporation of Baltimore independent, of, or free from the control, which the General Assembly of Maryland has over all such Corporations in this State.

### **Article XI-A - Local Legislation**

#### Section 1.

On demand of the Mayor of Baltimore and City Council of the City of Baltimore, or on petition bearing the signatures of not less than 20% of the registered voters of said City or any County (Provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition), the Board of Election Supervisors of said City or



County shall provide at the next general or congressional election, occurring after such demand or the filing of such petition, for the election of a charter board of eleven registered voters of said City or five registered voters in any such Counties. Nominations for members for said charter board may be made not less than forty days prior to said election by the Mayor of Baltimore and City Council of the City of Baltimore or the County Commissioners of such County, or not less than twenty days prior to said election by petition bearing the signatures written in their own handwriting (and not by their mark) of not less than 5% of the registered voters of the said City of Baltimore or said County; provided, that in any case Two thousand signatures of registered voters shall be sufficient to complete any such nominating petition, and if not more than eleven registered voters of the City of Baltimore or not more than five registered voters in any such County are so nominated their names shall not be printed on the ballot, but said eleven registered voters in the City of Baltimore or five in such County shall constitute said charter board from and after the date of said election. At said election the ballot shall contain the names of said nominees in alphabetical order without any indication of the source of their nomination, and shall also be so arranged as to permit the voter to vote for or against the creation of said charter board, but the vote cast against said creation shall not be held to bar the voter from expressing his choice among the nominees for said board, and if the majority of the votes cast for and against the creation of said charter board shall be against said creation the election of the members of said charter board shall be void; but if such majority shall be in favor of the creation of said charter board, then and in that event the eleven nominees of the City of Baltimore or five nominees in the County receiving the largest number of votes shall constitute the charter board, and said charter board, or a majority thereof, shall prepare within 18 months from the date of said election a charter or form of government for said city or such county and present the same to the Mayor of Baltimore or President of the Board of County Commissioners of such county, who shall publish the same in at least two newspapers of general circulation published in the City of Baltimore or County within thirty days after it shall be reported to him. Such charter shall be submitted to the voters of said City or County at the next general or Congressional election after the report of said charter to said Mayor of Baltimore or President of the Board of County Commissioners; and if a majority of the votes cast for and against the adoption of said charter shall be in favor of such adoption, the said charter from and after the thirtieth day from the date of such election shall become the law of said City or County, subject only to the Constitution and Public General Laws of this State, and any public local laws inconsistent with the provisions of said charter and any former charter of the City of Baltimore or County shall be thereby repealed.



**Section 1A.**

The procedure provided in this section for adoption of a charter may be used in any county in lieu of the procedures provided in Section 1 of this Article, and a charter adopted pursuant to this section has the effect of a charter adopted in accordance with the provisions of Section 1. The board of county commissioners of any county at any time may appoint a charter board. Said charter board shall be registered voters and shall consist of an uneven number of members, not fewer than five or more than nine. The board of county commissioners shall appoint a charter board within thirty days after receiving a petition signed by five percent of the registered voters of the county or by ten thousand voters of the county, whichever is the lesser number. If additional charter board members are nominated by petitions signed by three percent of the registered voters of the county or by two thousand registered voters, whichever is the lesser number, delivered to the board of county commissioners within sixty days after the charter board is appointed, the board of county commissioners shall call a special election not less than thirty or more than ninety days after receiving petitions, unless a regular election falls within the designated period. The appointees of the board of county commissioners and those nominated by petitions shall be placed on the ballot in alphabetical order without party designation. The voters may cast votes for, and elect a number of nominees equal to the number of charter board members originally selected by the board of county commissioners, and those so elected are the charter board. The charter board, within 18 months from the date of its appointment, or if there was an election for some of its members, within 18 months from the date of the election, shall present a proposed charter for the county to the board of county commissioners, which shall publish it at least twice in one or more newspapers of general circulation in the county within thirty days after it is presented. The charter shall be submitted to the voters of the county at a special or regular election held not earlier than thirty days or later than ninety days after publication of the charter. If a majority of the votes cast for and against the adoption of the charter are in favor of its adoption, the charter shall become effective as the charter of the county on the thirtieth day after the election or such later date as shall be specified in the charter.

**Section 2.**

The General Assembly shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, shall not be enlarged or extended by any charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly.



## Section 3.

Every charter so formed shall provide for an elective legislative body in which shall be vested the law-making power of said City or County. Such legislative body in the City of Baltimore shall be known as the City Council of the City of Baltimore, and in any county shall be known as the County Council of the County. The chief executive officer, if any such charter shall provide for the election of such executive officer, or the presiding officer of said legislative body, if such charter shall not provide for the election of a chief executive officer, shall be known in the City of Baltimore as Mayor of Baltimore, and in any County as the President or Chairman of the County Council of the County, and all references in the Constitution and laws of this State to the Mayor of Baltimore and City Council of the City of Baltimore or to the County Commissioners of the Counties, shall be construed to refer to the Mayor of Baltimore and City Council of the City of Baltimore and to the President or Chairman and County Council herein provided for whenever such construction would be reasonable. From and after the adoption of a charter by the City of Baltimore, or any County of this State, as hereinbefore provided, the Mayor of Baltimore and City Council of the City of Baltimore or the County Council of said County, subject to the Constitution and Public General Laws of this State, shall have full power to enact local laws of said City or County including the power to repeal or amend local laws of said City or County enacted by the General Assembly, upon all matters covered by the express powers granted as above provided, and, as expressly authorized by statute, to provide for the filling of a vacancy in the County Council by special election; provided that nothing herein contained shall be construed to authorize or empower the County Council of any County in this State to enact laws or regulations for any incorporated town, village, or municipality in said County, on any matter covered by the powers granted to said town, village, or municipality by the Act incorporating it, or any subsequent Act or Acts amendatory thereto. Provided, however, that the charters for the various Counties shall specify the number of days, not to exceed forty-five, which may but need not be consecutive, that the County Council of the Counties may sit in each year for the purpose of enacting legislation for such Counties, and all legislation shall be enacted at the times so designated for that purpose in the charter, and the title or a summary of all laws and ordinances proposed shall be published once a week for two successive weeks prior to enactment followed by publication once after enactment in at least one newspaper of general circulation in the county, so that the taxpayers and citizens may have notice thereof. The validity of emergency legislation shall not be affected if enacted prior to the completion of advertising thereof. These provisions concerning publication shall not apply to Baltimore City. All such local laws enacted by the Mayor of Baltimore and City Council of the City of Baltimore or the Council of the Counties as hereinbefore provided, shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said local law and any Public General Law now or hereafter enacted the Public General Law shall control.



## Section 3A.

The charter for the government of any county governed by the provisions of this Article may provide for the election of members of the county council by the voters of councilmanic districts therein established, or by the voters of the entire county, or by a combination of these methods of election.

## Section 4.

From and after the adoption of a charter under the provisions of this Article by the City of Baltimore or any County of this State, no public local law shall be enacted by the General Assembly for said City or County on any subject covered by the express powers granted as above provided. Any law so drawn as to apply to two or more of the geographical subdivisions of this State shall not be deemed a Local Law, within the meaning of this Act. The term "geographical sub-division" herein used shall be taken to mean the City of Baltimore or any of the Counties of this State.

## Section 5.

Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. If at the election the majority of the votes cast for and against the amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the City or County from and after the thirtieth day after said election. The amendments shall be published by the Mayor of Baltimore or President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in said City or County.

## Section 6.

The power heretofore conferred upon the General Assembly to prescribe the number, compensation, powers and duties of the County Commissioners in each County, and the power to make changes in Sections 1 to 6 inclusive, Article XI of this Constitution, when expressly granted as hereinbefore provided, are hereby transferred to the voters of each County and the voters of City of Baltimore, respectively, provided that said powers so transferred shall be exercised only by the adoption or amendment of a charter as hereinbefore provided; and provided further that this Article shall not be



construed to authorize the exercise of any powers in excess of those conferred by the Legislature upon said Counties or City as this Article sets forth.

#### Section 7.

The word "Petition" as used in this Article means one or more sheets written or printed, or partly written and partly printed. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures that the signatures were affixed in his presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names. The General Assembly shall prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process and which are not in conflict with this Article. The false signing of any name, or the signing of any fictitious name to said petition shall be forgery, and the making of any false affidavit in connection with said petition shall be perjury.

### **Article XI-E - Municipal Corporations**

#### Section 1.

Except as provided elsewhere in this Article, the General Assembly shall not pass any law relating to the incorporation, organization, government, or affairs of those municipal corporations which are not authorized by Article 11-A of the Constitution to have a charter form of government which will be special or local in its terms or in its effect, but the General Assembly shall act in relation to the incorporation, organization, government, or affairs of any such municipal corporation only by general laws which shall in their terms and in their effect apply alike to all municipal corporations in one or more of the classes provided for in Section 2 of this Article. It shall be the duty of the General Assembly to provide by law the method by which new municipal corporations shall be formed.

#### Section 2.

The General Assembly, by law, shall classify all such municipal corporations by grouping them into not more than four classes based on population as determined by the most recent census made under the authority of the United States or the State of Maryland. No more than one such grouping of municipal corporations into four (or fewer) classes shall be in effect at any time, and the enactment of any such grouping of municipal corporations into four (or fewer) classes shall repeal any such grouping of municipal corporations into four (or fewer) classes then in effect. Municipal corporations shall be classified only as provided in this section and not otherwise.



**Section 3.**

Any such municipal corporation, now existing or hereafter created, shall have the power and authority, (a) to amend or repeal an existing charter or local laws relating to the incorporation, organization, government, or affairs of said municipal corporation heretofore enacted by the General Assembly of Maryland, and (b) to adopt a new charter, and to amend or repeal any charter adopted under the provisions of this Article.

**Section 4.**

The adoption of a new charter, the amendment of any charter or local laws, or the repeal of any part of a charter or local laws shall be proposed either by a resolution of the legislative body of any such municipal corporation or by a petition containing the signatures of at least five per cent of the registered voters of a municipal corporation and filed with the legislative body of said municipal corporation. The General Assembly shall amplify the provisions of this section by general law in any manner not inconsistent with this Article.

**Section 5.**

Notwithstanding any other provision in this Article, the General Assembly may enact, amend, or repeal local laws placing a maximum limit on the rate of which property taxes may be imposed by any such municipal corporation and regulating the maximum amount of debt which may be incurred by any municipal corporation. However, no such local law shall become effective in regard to a municipal corporation until and unless it shall have been approved at a regular or special municipal election by a majority of the voters of that municipal corporation voting on the question. No such municipal corporation shall levy any type of tax, license fee, franchise tax or fee which was not in effect in such municipal corporation on January 1, 1954, unless it shall receive the express authorization of the General Assembly for such purpose, by a general law which in its terms and its effect applies alike to all municipal corporations in one or more of the classes provided for in Section 2 of this Article. All charter provisions enacted under the authority of Section 3 of this Article shall be subject to any local laws enacted by the General Assembly and approved by the municipal voters under the provisions of this section.

**Section 6.**

All charter provisions, or amendments thereto, adopted under the provisions of this Article, shall be subject to all applicable laws enacted by the General Assembly; except that any local laws, or amendments thereto, relating to the incorporation, organization, government, or affairs of any municipal corporation and enacted before this Article becomes effective, shall be subject to any charter provisions, or amendments thereto, adopted under the provisions of this Article. Any local law, or amendments



thereto, relating to the incorporation, organization, government, or affairs of any municipal corporation and in effect at the time this Article becomes effective, shall be subject to any applicable State law enacted after this Article becomes effective. All laws enacted by the General Assembly and in effect at the time this Article becomes effective, shall remain in effect until amended or repealed in accordance with the provisions of this Constitution. Nothing in this Article shall be construed to authorize any municipal corporation, by any amendment or addition to its charter, to permit any act which is prohibited by the laws of this State concerning the observance of the Sabbath Day or the manufacture, licensing or sale of alcoholic beverages.

### **Article XI-F - Home Rule for Code Counties**

#### **Section 1.**

For the purposes of this Article, (1) "code county" means a county which is not a charter county under Article 11A of this Constitution and has adopted the optional powers of home rule provided under this Article; and (2) "public local law" means a law applicable to the incorporation, organization, or government of a code county and contained in the county's code of public local laws; but this latter term specifically does not include (i) the charters of municipal corporations under Article 11E of this Constitution, (ii) the laws or charters of counties under Article 11A of this Constitution, (iii) laws, whether or not Statewide in application, in the code of public general laws, (iv) laws which apply to more than one county, and (v) ordinances and resolutions of the county government enacted under public local laws.

#### **Section 2.**

The governing body of any county, by a vote of at least two-thirds of the members elected thereto, may propose by resolution that the county become a code county and be governed by the provisions of this Article. Upon the adoption of such a resolution, it shall be certified to the Board of Supervisors of Elections in the county, which Board (pursuant to the election laws of the State) shall submit to the voters of the county at the next ensuing general election the question whether the resolution shall be approved or rejected. If in the referendum a majority of those persons voting on this question vote for the resolution, the resolution is approved, and the county shall become a code county under the provisions of this Article, on the thirtieth day after the election. If in the referendum a majority of those persons voting on this question vote against the resolution, the resolution is rejected, and of no further effect.

Provided that if at the next ensuing general election there shall be submitted to the voters of the county a proposed charter under Article 11A of this Constitution, the proposed charter only shall be submitted to the voters at that next ensuing general election. If the proposed charter is adopted by the voters, this particular resolution to



become a code county shall not be submitted to the voters and shall have no further effect. If the proposed charter is rejected by the voters, the code question under this Article shall be submitted to the voters at the general election two years later, and no charter question under Article 11A shall be submitted to the voters at that general election.

#### Section 3.

Except as otherwise provided in this Article, a code county may enact, amend, or repeal a public local law of that county, following the procedure in this Article.

#### Section 4.

Except as otherwise provided in this Article, the General Assembly shall not enact, amend, or repeal a public local law which is special or local in its terms or effect within a code county. The General Assembly may enact, amend, or repeal public local laws applicable to code counties only by general enactments which in term and effect apply alike to all code counties in one or more of the classes provided for in Section 5 of this Article.

#### Section 5.

The General Assembly, by law, shall classify all code counties by grouping them into not more than four classes based either upon population as determined in the most recent Federal or State census or upon such other criteria as determined by the General Assembly to be appropriate. Not more than one such grouping of code counties into four (or fewer) classes may be in effect at any one time, and the enactment of any grouping of code counties into four (or fewer) classes repeals any other such grouping then in effect. Code counties may be classified only as provided in this section.

#### Section 6.

A code county may enact, amend, or repeal a public local law of that county by a resolution of the board of county commissioners. The General Assembly may amplify the provisions of this section by general law in any manner not inconsistent with this Article.

#### Section 7.

Any action of a code county in the enactment, amendment, or repeal of a public local law is subject to a referendum of the voters in the county, as in this section provided. The enactment, amendment, or repeal shall be effective unless a petition of the registered voters of the county requires that it be submitted to a referendum of the voters in the county. The General Assembly shall amplify the provisions of this section by general law in any manner not inconsistent with this Article, except that in any event the



number of signatures required on such a petition shall not be fewer than five percentum (5%) of the voters in a county registered for county and State elections.

#### Section 8.

Notwithstanding any other provisions of this Article, the General Assembly has exclusive power to enact, amend, or repeal any local law for a code county which (1) authorizes or places a maximum limit upon the rate of property taxes which may be imposed by the code county; or (2) authorizes or regulates the maximum amount of indebtedness which may be incurred by the code county. Public local laws enacted by the General Assembly under this section prevail over any public local laws enacted by the code county under other sections in this Article.

#### Section 9.

A code county shall not levy any type of tax, license fee, franchise tax, or fee which was not in effect or authorized in the code county at the time it came under the provisions of this Article, until an express authorization of the General Assembly has been enacted for this purpose by a general law which in its terms and effect applies alike to all code counties in one or more of the classes provided for in Section 5 of this Article.

#### Section 10.

All laws enacted by the General Assembly and in effect when this Article was added to the Constitution shall remain in effect until amended or repealed under the Constitution. Every public local law enacted, amended, or repealed by a county under the provisions of this Article prevails over the previous public local law, except to the extent it is subject to an applicable law enacted by the General Assembly.

### **Article XIII - New Counties**

#### Section 1.

The General Assembly may provide, by Law, for organizing new Counties, locating and removing county seats, and changing county lines; but no new county shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of each of said counties, respectively, shall be required; nor shall the lines of any county nor of Baltimore City be changed without the consent of a majority of the legal voters residing within the district, which under said proposed change, would form a part of a county or of Baltimore City different from that to which it belonged prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than



ten thousand inhabitants, or its territory reduced to less than four hundred square miles. No county lines heretofore validly established shall be changed except in accordance with this section.

Section 2.

The General Assembly shall pass all such Laws as may be necessary more fully to carry into effect the provisions of this Article.

**Article XVII - Quadrennial Elections**

Section 1.

The purpose of this Article is to reduce the number of elections by providing that all State and county elections shall be held only in every fourth year, and at the time provided by law for holding congressional elections, and to bring the terms of appointive officers into harmony with the changes effected in the time of the beginning of the terms of elective officers. The administrative and judicial officers of the State shall construe the provisions of this Article so as to effectuate that purpose. For the purpose of this Article only the word "officers" shall be construed to include those holding positions and other places of employment in the state and county governments whose terms are fixed by law, but it shall not include any appointments made by the Board of Public Works, nor appointments by the Governor for terms of three years.

Section 2.

Except for a special election that may be authorized to fill a vacancy in a County Council under Article XI-A, Section 3 of the Constitution, elections by qualified voters for State and county officers shall be held on the Tuesday next after the first Monday of November, in the year nineteen hundred and twenty-six, and on the same day in every fourth year thereafter.

Section 3.

All State and county officers elected by qualified voters (except judges of the Circuit Courts, judges of the Supreme Bench of Baltimore City, judges of the Court of Appeals and judges of any intermediate courts of appeal) shall hold office for terms of four years, and until their successors shall qualify.

Section 4.

The term of office of all Judges and other officers, for whose election provision is made by this Constitution, shall, except in cases otherwise expressly provided herein, commence from the time of their Election. All such officers shall qualify as soon after their election as practicable, and shall enter upon the duties of their respective offices immediately upon their qualification.



## Section 5.

All officers to be appointed by the Governor shall hold office for the terms fixed by law. All officers appointed by County Commissioners shall hold office for terms of four years, unless otherwise duly changed by law.

## Section 6.

The terms of the Members of the Board of Supervisors of Elections of Baltimore City and of the several counties shall commence on the first Monday of June next ensuing their appointment.

## Section 7.

Sections 1, 2, 3, and 5 of this Article do not apply or refer to:

- (1) members of any elective local board of education; or
- (2) the Board of County Commissioners for Cecil County.

## Section 8.

If at any election directed by this Constitution, any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered by the Governor, except in cases specially provided for by this Constitution.

## Section 9.

In the event of any inconsistency between the provisions of this Article and any of the other provisions of the Constitution, the provisions of this Article shall prevail, and all other provisions shall be repealed or abrogated to the extent of such inconsistency.



## **Appendix 2**

### **Express Powers Granted Charter Counties**

#### **October 1, 2002**

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#### **Article 25A - Chartered Counties of Maryland**

##### Section 5.

The following enumerated express powers are granted to and conferred upon any county or counties which hereafter form a charter under the provisions of Article XI-A of the constitution, that is to say:

(A) (1) To enact local laws for the county, including the power to repeal or amend local laws of the county enacted by the General Assembly upon the matters covered by the express powers in this article.

(2) To provide for the enforcement of all ordinances, resolutions, bylaws and regulations adopted under the authority of this article by fines, penalties and imprisonment, enforceable according to law as may be prescribed. A penalty may not exceed \$1,000 for any offense, unless otherwise authorized in this subsection, or provide for imprisonment for more than six months.

(3) To provide for the enforcement of local fair housing laws by fines or penalties that do not exceed the fines or penalties provided in the federal Fair Housing Act Amendments of 1988 for enforcement of similar federal fair housing laws.

(4) To provide for the enforcement of local employment discrimination laws or public accommodations discrimination laws by fines or penalties that do not exceed \$5,000 for any offense.

(5) To provide for enforcement of all ordinances, resolutions, bylaws, and regulations adopted under the authority of this article by civil fines and penalties.

(B) To provide for the protection of the county property; to provide for the acquisition by purchase, lease, or otherwise, and condemnation of property required for public purposes in the county; to dispose of any real or leasehold property belonging to the county, provided the same is no longer needed for public use; to provide for the financing of any housing or housing project in whole or in part, including the placement of a deed of trust, mortgage, or other instrument upon the property to ensure repayment of funds used to purchase, construct, rehabilitate, or otherwise develop the housing



project; to grant any franchise or right to use the same, or any right or franchise in relation to any highway, street, road, lanes, alley or bridge; to grant one or more exclusive or nonexclusive franchises for a community antenna system or other cable television system that utilizes any public right-of-way, highway, street, road, lane, alley, or bridge, to impose franchise fees, and to establish rates, rules, and regulations for franchises granted; and to provide for the leasing as lessor to the State or any political subdivision or other agency thereof, or to any county agency, or to any person, any property belonging to the county or any agency thereof, in furtherance of the public purposes of such county or agency, upon such terms and compensation as said county may deem proper, and after such disposition, grant or lease shall have been advertised once a week for three successive weeks in one or more newspapers of general circulation published in said county, stating the terms thereof and the compensation to be received therefore, and giving opportunity for objections thereto. Provided, however, that easements for public utilities may be granted without advertisement.

(C) To erect, establish, maintain and control hospitals, almshouses, pesthouses or other similar institutions within the county, and make all regulations for the government and conduct of the same; to erect, establish and maintain courthouses; to establish, maintain, regulate and control county jails, and county houses of correction or detention and reformatories, and to regulate all persons confined therein; to make proper provision for female and juvenile offenders.

(D) To provide for county advertising, printing and publishing, including that of all ordinances, bylaws or resolutions adopted by the county council and of annual statements of expenses of the county government.

(E) To audit the accounts of all county officers, assisting the Legislative Auditor or other State officer clothed with authority in the performance of this duty; to provide for proof of all claims against the county before their payment.

(F) To provide for competitive bidding for any county work and the making and awarding of contracts requiring bonds whenever proper. To also provide for the purchase of materials, supplies, and equipment through the Purchasing Bureau of the State Department of General Services whenever desirable.

(G) (1) To provide, as far as necessary, for the draining of swamp and lowlands.

(2) With regard to a redetermination as to which lands continue to benefit from a prior drainage improvement project:



(i) At the request of the board of managers of a drainage association, the county council shall appoint a board of viewers to determine if the original determination as to which lands have benefited from the improvements has changed;

(ii) The board of viewers shall have the same qualifications, rights, powers, privileges, and duties as the original board of viewers;

(iii) The board of viewers shall report its findings to the county council. The report shall be considered in the same manner as the original report, including the same right to a public hearing and the right to judicial review; and

(iv) Any revision in the original determination as to which lands benefit from the improvements shall become the basis for all future assessments for paying for the improvements, including related expenses such as damages, and the maintenance of the improvements.

(H) To rearrange and create election districts and precincts.

(I) To provide for recording, indexing and keeping indexed all records in the office of the clerk of the court, register of wills and of the records of the commissioners and county council to the extent that such matters are not provided for by general law.

(J) To prevent, abate and remove nuisances; to prevent the introduction of contagious diseases into such county; and to regulate the places of manufacturing soap and candles and fertilizers, slaughterhouses, packinghouses, canneries, factories, workshops, mines, manufacturing plants and any and all places where offensive trades may be carried on, or which may involve or give rise to unsanitary conditions or conditions detrimental to health.

Nothing in this article or section contained shall be construed to affect in any manner any of the powers and duties of either the Secretary of Health and Mental Hygiene or the Secretary of the Environment or any public general laws of the State relating to the subject of health.

(K) To provide for grading, shelling, graveling, paving and curbing, or for regrading, reshelling, regravelling, repaving, recurbing and repairing any street, road, lane, alley, footway, bridge, culvert, highway or public place within said county, or any part thereof, now or hereafter condemned, ceded, opened, widened, extended or straightened as public property; and for assessing the cost of any such work upon the assessable basis of the county; to compel by fine or penalty the owner or possessor of any



lot to grade, regrade, pave, repave or repair the footways in front thereof; to regulate the opening of street surfaces.

(L) To regulate the conditions under which dogs, cows, sheep, pigs, cattle and livestock of any and every kind may be at large, or may pass over the streets, roads, alleys, lanes, bridges, highways and public places.

(M) To pass local fish and game laws.

(N) To regulate the making and keeping secure of fences and provide for the procedure to enforce the rights of the parties, and a lien for repairs, made by an owner not in default.

(O) To direct the class or subclass of improvements on land and personal property which shall be made subject to the county tax levy, and to provide for the levy thereupon and upon the value of land in accordance with Article 15 of the Declaration of Rights of the Constitution of Maryland as amended, of any sum which may be necessary to pay and discharge the principal and interest of any loan which may heretofore have been obtained, or which may hereafter be obtained by such county, according to law, and to create a sinking fund to meet the liabilities thus incurred, and levy upon the property so subject to taxation from time to time such sums as may be necessary to provide therefor; as well as to collect from such property so subject to the levy such sums as may be necessary for the support and maintenance of the county government.

To provide for the prompt collection of all taxes due the county; and for the sale of real estate, as well as leasehold and personal property, for the payment of the same.

To rectify errors in the assessment of property; to provide for the reduction or abatement of assessments improperly made, and for the reimbursement of moneys paid in consequence of such errors.

To levy and collect taxes for the organization, operation, maintenance of libraries, fire and ambulance services, and other municipal services and to authorize the purchase, sale, construction, maintenance, and operation of all real and personal property necessary or incidental to such services, and to establish, modify, amend and abolish special taxing areas for any of the purposes enumerated in this article, except that nothing herein contained shall be construed to permit the modification or abolition of existing special taxing areas performing municipal services, (other than furnishing fire protection or library service) and governed or administered by a citizen's committee or a commission elected or appointed independently of the county council.



To levy and collect taxes to provide for the payment of additional retirement or disability benefits to such former employees of the county as may, in the opinion of the county council, be entitled to receive such additional benefits.

(P) (1) To provide for the borrowing of moneys on the faith and credit of the county and for the issuance of bonds or other evidences of indebtedness therefore in such sums, for such purposes, on such terms and payable at such times, and from such taxes or other sources as may have been or may be provided by or pursuant to local law, subject to any limitations imposed by the charter adopted by the county and to the following limitations:

(i) The aggregate amount of bonds and other evidences of indebtedness outstanding at any one time shall not exceed a total of 6 percent of the assessable basis of real property of the county and 15 percent of the county's assessable basis of personal property and operating real property described in § 8-109(c) of the Tax - Property Article of the county, except that (a) tax anticipation notes or other evidences of indebtedness having a maturity not in excess of 12 months, (b) bonds or other evidences of indebtedness issued or guaranteed by the county payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or districts heretofore or hereafter established by law, and (c) bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services, shall not be subject to, or be included as bonds or evidences of indebtedness in computing or applying, the limitations established in this section.

(ii) Any local law authorizing the borrowing of money or issuance of bonds or other evidences of indebtedness shall be submitted to the registered voters of the county for approval or rejection, if a petition for such submission is filed pursuant to the provisions of the charter and local laws of the county. If the charter contains no such provisions, any local law authorizing the borrowing of money or issuance of bonds or other evidences of indebtedness shall be submitted to the registered voters of the county for approval or rejection, if a petition for such submission, bearing the signatures of 10 per centum or more of such voters, is filed with the board of supervisors of elections of the county within 75 days after the enactment of such local law.

(2) To provide for the issuance of bonds or other obligations payable as to principal and interest and premium, if any, solely from the funds or revenues received from or in connection with any system, project, or undertaking, all or part of which is financed from the proceeds of such bonds or obligations. Bonds or obligations issued under this paragraph do not constitute an indebtedness of the county or a pledge of its



faith and credit or taxing power, may be sold at private (negotiated) sale, and are not subject to the limitations of paragraph (1) of this subsection, Article 31, §§ 10 and 11 of the Code, or any provision of the issuing county's charter. Nothing in this paragraph shall be construed as a limitation on the power of a county to issue revenue bonds under the provision of any other applicable law.

(3) The bonds, notes, and any other evidences of obligation issued under this section, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by this State, or by any of its political subdivisions, municipal corporations or public agencies of any kind.

(Q) (1) To provide for the appointment and removal of all county officers except those whose appointment or election is provided for by the Constitution or public general law, and to establish a merit system, if deemed desirable, in connection with the appointment of all county officials and employees not elected or appointed under the Constitution and the public general laws; to fix the qualifications and term of office of such county executive authority as may be established, and to fix its compensation; provided that the county council may enact local laws designed to prevent conflicts between the private interests and public duties of any county officers, including members of the county council, and to govern the conduct and actions of all such county officers in the performance of their public duties, and to provide for penalties, including removal from office, for violation of any such laws or the regulations adopted thereunder.

(2) To provide for the conduct of a special election to fill a vacancy in the county council that occurs upon the death or resignation of a member of the county council or on forfeiture of office by a member of the county council.

(R) To prevent the credit of the county in any manner being given or loaned to or in aid of any individual, association or corporation.

(S) To pass any ordinance facilitating the amendment of the county charter by vote of the electors of the county and agreeable to Article XI-A of the constitution.

The foregoing or other enumeration of powers in this article shall not be held to limit the power of the county council, in addition thereto, to pass all ordinances, resolutions or bylaws, not inconsistent with the provisions of this article or the laws of the State, as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as such ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county.



Provided, that the powers herein granted shall only be exercised to the extent that the same are not provided for by public general law; provided, however, that no power to legislate shall be given with reference to licensing, regulating, prohibiting or submitting to local option, the manufacture or sale of malt or spirituous liquors.

(T) To enact local laws enabling the county council to adopt from time to time, after reasonable notice and opportunity for public hearing and with or without modifications, ordinances and amendments thereof for the protection and promotion of public safety, health, morals, comfort and welfare, relating to any of the following: the location, construction, repair, and use of streets and highways; the disposal of wastes; the control of problems of soil erosion and of the preservation of the natural topography in newly developed and other areas; and the erection, construction, repair and use of buildings and other structures; and to enact local laws providing appropriate administrative and judicial proceedings, remedies, and sanctions for the administration and enforcement of such ordinances and amendments.

(U) To enact local laws providing (1) for the establishment of a county board of appeals whose members shall be appointed by the county council; (2) for the number, qualifications, terms, and compensation of the members; (3) for the adoption by the board of rules of practice governing its proceedings; and (4) for the decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising (either originally or on review of the action of an administrative officer or agency) under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map; the issuance, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order; and the assessment of any special benefit tax: Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision. Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the court may appeal from the decision to the Court of Special Appeals in the same manner as provided for in civil cases.

(V) To enact local laws providing for the development and administration of a comprehensive recreational program including the construction, equipment and use of



park, community center, and recreational buildings and facilities, the acquisition of sites therefore, including financial support for artistic, musical, and cultural public and private nonprofit organizations and activities, and the furnishing of recreational and other municipal services in connection therewith; and to exercise any power or authority conferred by the provisions of Article 25 of this Code, in the subtitle "Public Recreation and Parks".

(W) To enact local laws providing for the creation of a storm drainage district or districts and the levying of taxes therein, the financing, construction and maintenance of storm drainage projects, and the regulation of storm drainage facilities.

(X) (1) (i) To enact local laws, for the protection and promotion of public safety, health, morals, and welfare, relating to zoning and planning, including:

1. The power to provide for the right of appeal of any matter arising under such planning and zoning laws to the circuit court, except as is provided in § 5(U) of this article. Any decision of the circuit court may be appealed to the Court of Special Appeals; and

2. The power to establish a program for the transfer of development rights.

(ii) To provide by ordinance that a violation of a zoning law or regulation enacted under this section may be a civil zoning violation. The violation shall be enforced as provided in Article 66B, § 7.02 of the Code.

(2) (i) It has been and shall continue to be the policy of this State that the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls.

(ii) It has been and shall continue to be the policy of this State that planning and zoning controls shall be implemented by local government.

(iii) To achieve the public purposes of this regulatory scheme, the General Assembly recognizes that local government action will displace or limit economic competition by owners and users of property.

(iv) It is the policy of the General Assembly and of this State that competition and enterprise shall be so displaced or limited for the attainment of the purposes of the State policy for implementing planning and zoning controls as set forth in this article and elsewhere in the public local and public general law.



(v) The powers granted to the county pursuant to this paragraph shall not be construed:

1. To grant to the county powers in any substantive area not otherwise granted to the county by other public general or public local law;

2. To restrict the county from exercising any power granted to the county by other public general or public local law or otherwise;

3. To authorize the county or its officers to engage in any activity which is beyond their power under other public general law, public local law, or otherwise; or

4. To preempt or supersede the regulatory authority of any State department or agency under any public general law.

(Y) To organize and establish a county board of health to act instead of the county council as the county board of health under Title 3, Subtitle 2 of the Health - General Article.

(Z) To have the same powers enumerated in subsection (dd) of § 3 of Article 25 of this Code.

(AA) To establish by ordinance a commission empowered to set compensation and allowances to be paid to members of county councils. When established, the commission shall set the compensation and allowances within 15 days after the beginning of the fourth year of the term of each council. The commission by resolution shall submit its determination for compensation and allowances to the county council. The commission may recommend an increase or decrease in the compensation paid to members of the county council, but in no event may compensation or allowances be less than provided in the charter of the respective counties. Upon receiving the resolution, the council may reduce or reject the commission's recommendation, but it shall not increase any item in the resolution. The recommendations contained in the resolution shall become effective upon the adoption by the council of an ordinance encompassing the recommendations, but the salary specified at the time a council takes office shall not change for that period during which the council was elected.

The ordinance making any change in the salary paid to members of the county council shall be ordained prior to the election for the members of the next succeeding council and take effect only for the members of the next succeeding council.



(BB) To enact laws generally for historic and landmark zoning and preservation or to enact those laws in accordance with the provisions of Article 66B, § 8.01 et seq., or to enact such laws to be administered generally by an Historic District Commission and to provide for appeals. The authority conferred by this subsection shall be in addition to any existing charter provisions or local law providing for planning and zoning.

(CC) *Repealed.*

(DD) To make use of federal or State financial assistance for commercial or industrial redevelopment projects for the purpose of making grants, loans, or guaranteeing loans to private entities; provided, that the authority granted by this subsection may be used only for commercial or industrial redevelopment projects and may not be used for residential or housing projects.

(EE) To enact local laws conditioning the acceptance of any development of land for residential purposes approved by appropriate local authorities upon a demonstration, acceptable to local authorities, of compliance by the developer with the pertinent underground electric and telephone residential service regulations, including those pertaining to deposits, promulgated by the Public Service Commission of Maryland.

(FF) In accordance with the provisions of this subsection, to establish a commercial district management authority for any commercial district within its geographical limits.

(1) As to each authority it establishes, the county governing body:

(i) Shall specify the membership, organization, jurisdiction, and geographical limits of the authority;

(ii) Shall specify one or more of the following as the purposes of the authority:

1. Promotion;
2. Marketing; and
3. The provision of security, maintenance, or amenities within the district;

(iii) May specify the provisions of the county charter or local law relating to personnel, procurement, or similar operational matters that apply or do not



apply to the authority, except that minority business enterprise procurement and equal employment opportunity laws may not be waived;

(iv) May approve the annual budget of the authority if the county governing body levies an ad valorem tax to support the authority; and

(v) May provide such financing as it deems appropriate for the authority through fees which may be charged to, or taxes which may be levied against, businesses subject to the authority's jurisdiction.

(2) An authority established pursuant to this subsection may not:

(i) Exercise the power of eminent domain;

(ii) Purchase, sell, construct, or, as a landlord, lease office or retail space; or

(iii) Except as otherwise authorized by law, otherwise engage in competition with the private sector.

(3) Any fees or taxes imposed under this subsection shall be used only for the purposes stated in this subsection and may not revert to the general fund of the county.

(4) The county governing body may establish an authority pursuant to this subsection as a special taxing district.



## **Appendix 3**

### **Express Powers Granted Municipal Corporations**

#### **October 1, 2002**

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#### **Article 23A - Corporations - Municipal**

##### Section 2.

(a) The legislative body of every incorporated municipality in this State, except Baltimore City, by whatever name known, shall have general power to pass such ordinances not contrary to the Constitution of Maryland, public general law, or, except as provided in § 2B of this article, public local law as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; but nothing in this article shall be construed to authorize the legislative body of any incorporated municipality to pass any ordinance which is inconsistent or in conflict with any ordinance, rule or regulation passed, ordained or adopted by the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission, and nothing in this article shall be taken or construed to affect, change, modify, limit or restrict in any manner any of the corporate powers of the Mayor and City Council of Baltimore which it now has or which hereafter may be granted to it.

(b) In addition to, but not in substitution of, the powers which have been, or may hereafter be, granted to it, such legislative body also shall have the following express ordinance-making powers:

(1) To provide for municipal advertising, for the printing and publication of statements of the receipts and expenditures of the municipality, and the publication and codification of all laws, ordinances, resolutions, or regulations adopted by or affecting the municipality.

(2) To expend municipal funds for any purpose deemed to be public and to affect the safety, health, and general welfare of the municipality and its occupants, provided that funds not appropriated at the time of the annual levy, shall not be expended, nor shall any funds appropriated be expended for any purpose other than that for which appropriated, except by a two-thirds vote of all members elected to said legislative body.



(3) To provide for the appointment of an auditor or accountant to audit the books and accounts of all municipal officers collecting, handling, or disbursing funds belonging to the municipality.

(4) To establish, maintain and support a municipal band or musical organization.

(5) To make reasonable regulations concerning buildings and signs to be erected within the limits of the municipality, including a building code and the requirement for building permits.

(6) To regulate the interment of bodies and to control the location and establishment of cemeteries.

(7) To provide, maintain and operate such community and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the municipality as the legislative body may determine.

(8) To change the corporate name of the municipality, provided that no such change shall affect any rights, duties or obligations held by the municipality, and provided further that such ordinance shall first be submitted to and approved by the qualified voters of the municipality at a regular or special municipal election.

(9) To prohibit the youth from being on the streets and public places at unreasonable hours of the night.

(10) To control the use and handling of dangerous and explosive materials, and to prevent the firing of any firearms or other explosive instrument.

(11) To have the general management and control of the finances of the municipality, and to designate by ordinance or resolution the banks or trust companies of this State in which shall be deposited all funds belonging to the municipality.

(12) To establish and maintain a fire department; and to provide for the removal of fire hazards.

(13) To grant franchises as provided under existing public general or public local laws; to grant one or more exclusive or nonexclusive franchises for a community antenna system or other cable television system that utilizes any public right-



of-way, highway, street, road, lane, alley, or bridge, to impose franchise fees, and to establish rates, rules, and regulations for franchises granted under this section.

(14) To regulate or prevent the throwing or depositing of any dirt, garbage, trash, or liquids in any public place and to provide for the proper disposal of such material.

(15) To appoint a board of health, and to define and regulate its powers and duties; to establish quarantine regulations, and to authorize the removal or confinement of persons having infectious or contagious diseases; to prevent and remove nuisances; to prevent the introduction of contagious diseases into the municipality; to regulate the places of manufacturing soap, fertilizer, and other noxious things; to regulate slaughterhouses, packing houses, and all places where offensive trades may be carried on; to regulate places which cause or may cause unsanitary conditions, or conditions detrimental to health. Provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the Secretary of Health and Mental Hygiene or any county board of health or any public general or public local law relating to the subject of health.

(16) To authorize and require the inspection of gas pipes, water pipes, plumbing apparatus, electric lines and wires, and drainage and sewage systems on private property, and to compel repairs thereon.

(17) To provide that any valid charges, taxes or assessments made against any real property within the municipality shall be liens upon such property to be collected in the same manner as municipal taxes are collected.

(18) To establish and to regulate markets, and to license the sale of marketable commodities therein.

(19) To establish a merit system in connection with the appointment of all municipal officials and employees not elected or appointed under the Constitution or public general or public local laws of the State, and to request and avail themselves of the facilities of the Department of Budget and Management, as provided in § 4-303 of the State Personnel and Pensions Article, for the administration of such merit system without unnecessary expense.

(20) To establish and maintain such parks, gardens, playgrounds, and recreational facilities as in the discretion of the legislative body are deemed to be for the health and welfare of the municipality and its inhabitants.



(21) To provide a retirement or pension system or a group insurance plan for its officers or employees or for including its officers and employees in any retirement or pension system operated by or in conjunction with the State, on such terms and conditions as State laws may prescribe.

(22) To establish and maintain an adequate police force.

(23) To punish and suppress vagrancy, vice, gambling, and the owning or keeping of houses of ill fame within the limits of the town.

To enforce all ordinances relating to disorderly conduct and the suppression of nuisances equally within the limits of the municipality and beyond those limits for one half mile, or for so much of this distance as does not conflict with the powers of another municipal corporation.

(23A) The municipal corporation may provide for the creation, appointment, duties, and powers of a board of port wardens to exercise jurisdiction within the limits of the municipal corporation.

(i) A board of port wardens may regulate the placement, erection, or construction of structures or other barriers within or on the waters of the municipality, including but not limited to the issuing of licenses to create or build wharves or piers and the issuing of permits for mooring piles, floating wharves, buoys, or anchors, taking into account the present and proposed uses, and the effect of present and proposed uses on marine life, wildlife, conservation, water pollution, erosion, navigational hazards, the effect of the proposed use on congestion within the waters, the effect on other riparian property owners, and the present and projected needs for any proposed commercial or industrial use. The port wardens shall have the power to regulate the materials and construction for the aforesaid improvements and to make certain that any improvements in the waters within the municipality do not render the navigation too close and confined. This provision in no way intends to affect or conflict with any zoning power of a municipality.

(ii) No person may build any wharf or pier, or carry out any earth or other material for the purpose of building a wharf or pier, nor shall any persons place or erect mooring piles, floating wharves, buoys, or anchors without a license or permit from the port wardens. If any person violates the provisions of this section, or if any person builds any wharf or pier a greater distance into the waters of the port, or in a different form, or of different materials than determined and allowed by the wardens, he is subject to a fine as imposed by the legislative body of the municipal corporation.



(iii) In all differences that arise between any aggrieved party and the port wardens of that municipal corporation concerning the discharge of the duties of the port wardens, an appeal may be taken to the legislative body of the municipal corporation.

(24) To acquire by conveyance, purchase or condemnation real or leasehold property needed for any public purpose; to erect buildings thereon for the benefit of the municipality; and to sell at public or private sale after twenty days' public notice and to convey to the purchaser or purchasers thereof any real or leasehold property belonging to the municipality when such legislative body determines that the same is no longer needed for any public use.

To take by gift, grant, bequest, or devise and to hold real and personal property absolutely or in trust for parks or gardens, or for the erection of statues, monuments, buildings or structures, or for any public use, upon such terms and conditions as may be prescribed by the grantor or donor, and accepted by the municipality; to provide for the proper administration of the same; and to convey the same when such legislative body determines that it is no longer needed for public purposes, subject to the terms and conditions of the original grant.

(24A) To provide for the purchase of materials, supplies, and equipment through the Purchasing Bureau of the State Department of General Services whenever desirable.

(25) To remove or temporarily suspend from office any person who has been appointed to any municipal office and who after due notice and hearing is adjudged to have been guilty of inefficiency, malfeasance, misfeasance, nonfeasance, misconduct in office, or insubordination; and to fill the vacancy caused by such removal or suspension.

(26) To fix the salary or compensation of all municipal officers and employees.

(27) To make, have and use, and from time to time, alter, a common seal.

(28) To require the owners of premises to keep the sidewalks thereon clean and free from snow, ice, or other obstructions.

(29) To provide for special elections for municipal purposes, at such times and places as may be determined, and subject to the provisions of the charter of said municipality.



(30) To provide reasonable zoning regulations subject to the referendum of the voters at regular or special elections.

(31) To make use of federal or State financial assistance for commercial or industrial redevelopment projects, for the purpose of making grants, loans, or guaranteeing loans to private entities; provided, that the authority granted by this subsection may be used only for commercial or industrial redevelopment projects and may not be used for residential or housing projects.

(32) To exercise the licensing authority granted in the Business Regulation Article and other provisions of law.

(33) Subject to the limitations imposed under Article 24 of the Code, the Tax - General Article, and the Tax - Property Article, to establish and collect reasonable fees and charges:

(i) For the franchises, licenses, or permits authorized by law to be granted by a municipal corporation; or

(ii) Associated with the exercise of any governmental or proprietary function authorized by law to be exercised by a municipal corporation.

(34) To offer and pay rewards for information relating to criminal activity committed within the municipality.

(35) (i) In accordance with the provisions of this paragraph, to establish a commercial district management authority for any commercial district within its geographical limits. As to each authority it establishes, the legislative body shall:

1. Specify the membership, organization, jurisdiction, and geographical limits of the authority;

2. Specify one or more of the following as the purposes of the authority:

A. Promotion;

B. Marketing; and

C. The provision of security, maintenance, or amenities within the district; and



3. Provide such financing as it deems appropriate for the authority through fees which may be charged to, or taxes which may be levied against, businesses subject to the authority's jurisdiction.

(ii) An authority established pursuant to this paragraph may not:

1. Exercise the power of eminent domain;

2. Purchase, sell, construct, or, as a landlord, lease office or retail space; or

3. Except as otherwise authorized by law, otherwise engage in competition with the private sector.

(iii) Any fees or taxes imposed under this paragraph shall be used only for the purposes stated in this paragraph and may not revert to the general fund of the municipal corporation.

(36) (i) It has been and shall continue to be the policy of this State that the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls.

(ii) It has been and shall continue to be the policy of this State that planning and zoning controls shall be implemented by local government.

(iii) To achieve the public purposes of this regulatory scheme, the General Assembly recognizes that local government action will displace or limit economic competition by owners and users of property.

(iv) It is the policy of the General Assembly and of this State that competition and enterprise shall be so displaced or limited for the attainment of the purposes of the State policy for implementing planning and zoning controls as set forth in this article and elsewhere in the public local and public general law.

(v) The powers granted to the municipality pursuant to this subsection shall not be construed:

1. To grant to the municipality powers in any substantive area not otherwise granted to the municipality by other public general or public local law;



2. To restrict the municipality from exercising any power granted to the municipality by other public general or public local law or otherwise;

3. To authorize the municipality or its officers to engage in any activity which is beyond their power under other public general law, public local law, or otherwise; or

4. To preempt or supersede the regulatory authority of any State department or agency under any public general law.

(37) (i) In addition to the authority provided elsewhere in this subsection, and provided the municipal corporation has urban renewal authority granted under Article III, Section 61 of the Maryland Constitution:

1. Subject to the provisions of subparagraph (iv) of this paragraph, to acquire, within the boundary lines of the municipal corporation, land and property of every kind, and any right, interest, franchise, easement or privilege therein, by purchase, lease, gift, condemnation or any other legal means, for development or redevelopment, including, but not limited to, the comprehensive renovation or rehabilitation thereof; and

2. To sell, lease, convey, transfer or otherwise dispose of any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi-public corporation, partnership, association, person or other legal entity.

(ii) No land or property taken by a municipal corporation for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to a municipal corporation pursuant to this paragraph by exercising the power of eminent domain, shall be taken without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

(iii) All land or property needed, or taken by the exercise of the power of eminent domain, by any municipal corporation for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to a municipal corporation pursuant to this paragraph is hereby declared to be needed or taken for a public use or a public benefit.



(iv) Before the acquisition of any single family or multiple family dwelling unit, or other structure, is made under this paragraph, a finding or determination shall be made that:

1. The dwelling unit or structure has deteriorated to such extent as to constitute a serious and growing menace to the public health, safety, and welfare;

2. The dwelling unit or structure is likely to continue to deteriorate unless corrected;

3. The continued deterioration of the dwelling unit or structure will contribute to the blighting or deterioration of the area immediately surrounding the dwelling unit or structure; and

4. The owner of the dwelling unit or structure has failed to correct the deterioration thereof.

(v) The legislative body of a municipal corporation shall adopt an ordinance for each acquisition of land or property made under the provisions of this paragraph.



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